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SEARCH AND SEIZURE MANUAL - 2007

(VOLUME-II)

DIRECTORATE OF INCOME-TAX
(Public Relations, Printing, Publications and Official Language)
INCOME-TAX DEPARTMENT
NEW DELHI-110 001

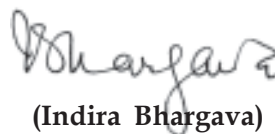
FOREWORD

It is very satisfying to note that our country is emerging as a major economic power. With sustained buoyancy in gross domestic product and consequent increase in income in different sectors, the country is marching ahead and has become a cynosure in the comity of nations. The technological changes brought about use of digital devices for the maintenance and upkeep of accounts and correspondingly changed modus operandi of evasion of tax. The Income Tax Department is faced with a formidable challenge in achieving its Mission: To promote compliance with Direct Tax Laws through quality tax payer service and firm administration/compliance. The search and seizure operations provide a useful tool for collecting the evidence against tax evasion and recover taxes from concealed income. Under the circumstances, there is an urgent need to keep the Search & Seizure Manual updated.

The Search & Seizure Manual which was first brought out in the year 1985 and subsequently revised in the year 1989 required to be upgraded and rewritten in view of technological changes and instructions/circulars issued by CBDT from time to time. Accordingly, a committee with Shri D.P. Panta as the convener and Shri G. Muthuramakrishnan and Shri S.S.N. Moorthy as its members, was constituted to rewrite the Search and Seizure Manual. This committee was split into three sub-committees which worked as working groups for the purpose. The result is the new Search and Seizure Manual which is rich in its content. The members of the committee and other officers associated with rewriting this Manual have done an excellent job and deserve appreciation.

Chapter-IV dealing with Air Intelligence Unit and Chapter-V dealing with digital evidence and related issues are new additions to the Manual. All other chapters have been fully rewritten and rearranged. The Manual refers to the applicable law and the relevant circular/instruction of the Board and would be a useful reference point.

I hope, this Manual will be very useful and relevant for the officers and officials of the Department and they will achieve excellence in their endeavours to use search as a tool of investigation and a means to detect tax evasion.



(Indira Bhargava)

Chairman

Central Board of Direct Taxes

New Delhi
May 30, 2007

PREFACE

I sincerely thank Shri D.P. Panta, CCIT, Kanpur and other members of the Committee and sub-committee for the great job rendered by them in rewriting Search and Seizure Manual.

We have come a long way since the first Search and Seizure Manual was published . Times have changed. The economic scenario has changed. India has changed. In our battle against tax evasion, new frontiers have opened up. Globalization and technology are impacting Indian society in a big way.

This has thrown up new challenges for the taxman. We have to meet these challenges.

With changing times, our response and reflexes have also to change. New strategies have to be evolved, in harmony with law and procedure, fairplay remaining central to all our efforts.

This Manual is an effort in this direction.

Hope, this will prove to be your friend, philosopher and guide.



Prasanna K. Misra

Member (Inv.)

Central Board of Direct Taxes

New Delhi
May 30, 2007

ACKNOWLEDGMENTS

A Committee was formed on October 30, 2006 to write a new comprehensive manual of 'search and seizure'. After a few meetings, it became clear that extensive research work was needed for writing the new manual. At times, the progress seemed to have been halted and it looked almost impossible to bring it out in time. But the inspiration provided by Smt. Indira Bhargava, Chairperson, CBDT, who had initiated this work as Member (Inv.), was always there to add new vigour to our efforts. The committee is grateful for her constant support.

This manual is not the result of the efforts of the committee members alone. A number of officers of the department have helped in collecting material for the manual. The Committee wishes to place on record special appreciation of the contribution of Smt. Neena Nigam, CIT (Appeals) and Sri S.M. Nigam, CIT (Appeals) whose tireless work has made it possible to bring out the manual in time. Thanks are due to Sri S.S. Kalyan, DDIT (Inv.) who helped in locating relevant circulars, instructions etc. on the subject. The Committee also thanks Smt. Vinita Chopra, DIT(Inv.), Sri T.K. Shah, DIT(Inv.) and Sri Rajendra, DIT (Inv.) for their contribution.

We are sure that this Manual will help the officers of the department in doing the work of search and seizure effectively. We have only the following message for them.

*"Errors, like straw, on the surface flow,
One who seeks for pearls, must dive below."*

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ABBREVIATIONS

ACIT	Assistant Commissioner of Income tax
ADIT	Assistant Director of Income tax
Addl.	Additional
AIR	Annual Information Return
AIS	Assessee Information System
AIU	Air Intelligence Unit
AO	Assessing Officer
AOP	Association of Persons
AST	Assessment Information System
ATM	Automatic Teller Machine
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise and Customs
CCIT	Chief Commissioner of Income tax
CD	Compact Disc
CEIB	Central Economic Intelligence Bureau
CIB	Central Information Bureau
CISF	Central Industrial Security Force
CIT	Commissioner of Income tax
CIT(A)	Commissioner of Income tax (Appeals)
CPU	Central Processing Unit
DAT	Digital Audio Tape (Drive)
DCIT	Deputy Commissioner of Income tax
DDIT	Deputy Director of Income tax
DGIT	Director General of Income tax
FDR	Fixed Deposit Receipt
INV.	Investigation
I-POD	Apple's iPod player.
IPC	Indian Penal Code

ITAT	Income Tax Appellate Tribunal
ITD	Income Tax Departmental Applications
ITO	Income tax Officer
IVP	Indira Vikas Patra
JCIT	Joint Commissioner of Income tax
JDIT	Joint Director of Income tax
KVP	Kisan Vikas Patra
LAN	Local Area Network
NCB	Narcotics Control Bureau
NSDL	National Securities Depository Ltd.
OS	Operating System
PDA	Personal Deposit Account
RAM	Random Access Memory
RBI	Reserve Bank of India
REIC	Regional Economic Intelligence Committee
SSF	Secret Service Fund
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TEP	Tax Evasion Petition
USB	Universal Serial Bus
ZAO	Zonal Accounts Officer

ANNEXURE - 1

ADDL. DIT/JDIT/S&S/Reg.I

Register of authorisation issued u/s. 132/132A of the Income-tax Act

Sl. No.	Authority issuing the authorisation, Section under which issued and Date of issue	Person in respect of whom the authorisation is issued	Particulars of premises in respect of which authorisation is issued	Names and Designations of the authorised officers (Mention premises-wise indicating, inter-alia, name of the leader of each search party)	Date of execution of authorisations	Remarks (if any)
1	2	3	4	5	6	7

APPENDIX - I

ANNEXURE - 2

ADDL. DIT/JDIT/S&S/Reg.II

Register of Informants

Name of the informant with address
Code No. of the informant

Date of the first meeting with the informant and subsequent meetings if any.	Reference to previous case in which this informant had given information earlier, if any	Name and address of the person against whom information is now being furnished and the reference No. of such information/evasion petition.	Name and designation of the DDIT/ADIT to whom the case had been assigned.
1	2	3	4

Brief details of the concealment alleged in the information/ evasion petition submitted by the informant	Money paid for purchase of information/ reward paid with date of payment	Action taken on the information/petition and the date of such action. Where a search has been carried out give code number allotted by DIT (Inv.)	Remarks (indicate, inter alia, the degree of reliability of the informant) as also S.No. in Register of search and seizure and S.No. in reward register
5	6	7	8

ANNEXURE - 3

ADDL. DIT/JDIT/S&S/Reg.III

Reward Register

Sl. No.	Code No. of the informant	Date on which the information was given	Nature and details of information given by the informant point by point	Date of search and the Serial No.(s) relating to the search in the search and seizure register.	Name of the group to which the information relates	Name of the assessee (in the group), addresses of the premises where search and seizure operations were conducted etc., give code no. allotted by DIT	A. Yrs. involved (separately for each assessee) covered by search and seizure operation (please put down all the assessment years one after the other)	Date of completion of assessment separate for each asst. year (in respect of each assessee)	Undisclosed income attributable to the information (included in the assessment, assessment year wise)
1	2	3	4	5	6	7	8	9	10

Addl. demand raised on account of the additions due to undisclosed income attributable to the information	Whether the calculations have been audited	Whether the addl. demand raised has been realised	Amount paid by way of purchase of information	Interim reward due	Dates of payment of interim reward	Date on which the reference was made for final reward	Reference no. and date of sanction letter giving final reward	Date of payment of final reward	Remarks
11	12	13	14	15	16	17	18	19	20

ANNEXURE - 4

ADDL. DIT/ JDIT/S&S/Reg.IV

Register of Search and Seizure Files

Sl. No.	Search and seizure file No. (Assign Nos. to files such Addl. DIT/JDIT (Inv.)/Search and Seizure-1/2000-01/Unit III etc.)	Name of the main person in whose case action u/s. 132/132A was taken	Name and code number of the informant/ reference number of the evasion petition based on which the search was conducted
1	2	3	4

Details of the folders (including sub-files or connected files) available in the file and total number of the folders	Page Nos. of the written papers available in the folders (separately) for each folder (indicate separately for order sheet pages and other pages)	Remarks including code number allotted by DIT (Inv.)	Designation of the Authority maintaining the file
5	6	7	8

ANNEXURE - 5

ADDL. DIT/JDIT/S&S/Reg.V

Register of Dossiers of Suspected Tax Evaders

Sl. No.	Name of the assessee in respect of whom the dossier is prepared	Name of the group to which the assessee belongs	Name of business / profession	ITO/ACIT/DCIT/JCIT/Addl. CIT/CIT	Brief details of action taken and results there of	Corresponding Serial No. in the search and seizure register	Remarks
1	2	3	4	5	6	7	8

ANNEXURE - 6

ADDL. DIT/ JDIT/S&S/Reg.VI

Register of Deposits/Withdrawals of Packages in the Strong Room/Lockers

Sl. No	Date and time the packages con-taining valuables are brought to the custodian for depositing into the strong room / locker	Name of the persons from whose premises / custody valuables were seized. Give code no. allotted by DIT	Date of seizure	Nature of the contents as reported by the Authorised Officer			Are the seals and identification slips in form SS(F)-DDIT/ ADIT-13 on the original packets intact.
				Description	Quantity	Value	
1	2	3	4	5	6	7	8

Have the covering bags been duly sealed and identification tag in form SS(F)-DDIT/ADIT-13 attached by custodian	Particulars of almirahs / lockers or the safe where the package is deposited	Signature of custodian operating the strong room and time of deposit of the package	Date and time of removal	Purpose of removal	Name of custodian and other persons present
9	10	11	12	13	14

Certificate of the custodian to the effect that the identification tag and seals on the enclosing covering packet are intact	Certificate of the person taking delivery of the packet to the effect that the seals and identification slips in form SS (F)-DDIT/ADIT-13 are intact.	Designation and signature of the persons acknowledging receipt of the package or the contents thereof, as the case may be	Signature of the custodian and other persons present in the strong room bank vault at the time of removal of package	Inspection remarks by the Addl. DIT/JDIT/CIT	Miscellaneous
15	16	17	18	19	20

ANNEXURE - 7

Addl. DIT/JDIT/S&S/Reg. VII

Strong Room Entry Register

Sl. No.	Name(s) of custodian operating the strong room together with names of the other persons present with their designation	Time at which the strong room was opened	Time at which the strong room was closed	Purpose of visit	Name of the assessee, if any	Signature of the custodian and other persons mentioned in Col. No. 3	Inspection remarks of the Addl. DIT/JDIT/CIT	Remarks
1	2	3	4	5	6	7	8	9

ANNEXURE - 8
DDIT/ADIT/S&S/Reg.I

Register of Search and Seizure

Name of the DDIT/ADIT and the charge:

Sl. No	Name of the person searched with date(s) of search	Address of the place(s) searched	Details of business or profession	Group to which the case belongs	Information file No. TEP reference no. based on which the case emanated	ITO/ACIT/DCIT/JCIT/Addl. CIT/CIT having jurisdiction over the case
1	2	3	4	5	6	7

Name and designation of the authority who issued the authorisation(s)	Names and designation of the authorised officers	Details of the seizure				Total value of the assets seized
		Cash Found/ Seized	Bullion Found/ Seized	Jewellery Found/ Seized	Other Assets Found/ Seized	
8	9	10				11

Code No. allotted by the DIT (Inv.)	Brief details of the incriminating documents/books of accounts seized with no. of items seized, assessment year (s) to which they relate, the assessee(s) to whom they pertain, concealment involved, assessment year wise, mode of concealment noticed etc.	Signature of the DDIT/ADIT for verifying that entries in Col. 1 to 14 are correctly recorded.
12	13	14

Date of handing over of assets to custodian/ITO/ACIT/DCIT				Date of handing over of seized documents / books of accounts to ITO/ACIT/DCIT and date of despatch of appraisal report	Remarks
Cash	Bullion	Jewellery	Other Assets		
15				16	17

ANNEXURE - 9

DDIT/ADIT/S&S/Reg.II

Register of Prohibitory Orders Issued u/s. 132(3) of the Income-tax Act

Sl. No.	Name(s) and address(s) of the assessee(s) and the group to which the assessee(s) belong. Also give code number allotted by DIT (Inv.)	Name and designation of the authorised officer issuing the prohibitory orders u/s. 132(3)	Date of service of restraint order u/s. 132(3)	Name and address of the person to whom the Pro-hibitory order is served	Particulars of the premises, locker, receptacle, accounts, etc., restrained to u/s. 132(3)	Has an inventory of the items found in the premises been made? If no, reason therefor.
1	2	3	4	5	6	7

Have the keys of these sealed premises/locker(s) etc., been seized?	Date when 60 days period expire	Details of precautions taken to ensure the sealed premises etc.,	Date (s) on which the sealed premises, lockers, etc., were opened and resealed to check the contents with the inventory already prepared, if any	Discrepancy noticed, if any	Date on which the prohibitory order was finally lifted
8	9	10	11	12	13

ANNEXURE - 10

DDIT/ADIT/S&S/Reg.III

Register of Inspection of Seized Books of Account and Documents

Sl. No.	Name(s) and particulars of the seized documents/ books of account whose inspection is sought	Name(s) of the assessee (s) in whose case the books of account documents sought to be inspected were seized.	Premises from where the documents/books of account were seized and the date(s) of seizure	Date of receipt of application for inspection in the investigation unit.	Name and address of the person deputed for taking inspection	Date & Time of starting inspection
1	2	3	4	5	6	7

Particulars of documents actually inspected/ extracts taken	Date and time of conclusion of the inspection	Signatures of the person taking the inspection.	Signature of the officer granting the inspection	Name(s) and designation of officer who was present at the time of the inspection	Remarks
8	9	10	11	12	13

ANNEXURE - 11

DDIT/ADIT/S&S/Reg.IV

Register of Offences Committed during the Search & Seizure Operations

Sl. No.	Name(s) and address of the person in respect of whose search, an offence was committed, together with corresponding S.No. in search and seizure register.	Name and designation of the authorised officer who noticed the offence together with ref. no. and date of communication of the offence?)	Brief details of the offence together with date and time of occurrence and the place of occurrence.	Name and address of the offender
1	2	3	4	5

Section of the I T Act/IPC/Cr.PC. etc., under which the offence is punishable	Details of complaint(s) filed	Result of the complaint(s) filed	Remarks including code number allotted by DIT (Inv.)
6	7	8	9

ANNEXURE - 12

ACIT/ITO/S&S/Reg.I

**Register for Retention of Books of Account and Documents u/s. 132(8)
Seized under section 132/132A**

Name of the assessee with PAN	Date of Panchanama seizing books of account documents etc.,	Particulars of books of account and documents seized (Col.2)	Date of order of assessment u/s 153A, 153C or 158 BC or 158BD	Date on which 30-days-time expires from the date of order	Particulars of books documents returned, if any with date(s)
1	2	3	4	5	6

Particulars of books, documents where retention has been sought	Grounds on which extension has been sought	No. and date of order of CIT and date up to which further retention has been permitted	No. and date of ACIT/ITO's letter communicating to the assessee the orders of the CIT	Further action due on	Remarks, if any
7	8	9	10	11	12

ANNEXURE - 13

CIT/S&S/Reg.I

Register for Extension of Time Granted by CIT for Retention of Seized Records

Sl. No.	Name of the assessee	ITO/ACIT/DCIT/ Addl. CIT/JCIT charge	No. and date of ADIT's intimation forwarding seized material to the ACIT/DCIT/ITO	Date of order of asst. u/s 153A, 153C, 158 BC or 158BD	No. & date of ITO/AC's letter seeking extension. of time for retention of seized record beyond 30 days from the date of order
1	2	3	4	5	6

No. and date of CIT's letter granting extension of time	Period up to which extension has been granted	Further periods of extension granted from time to time	No. and date of ACIT/ITO's letter intimating the release of seized records.	Remarks, if any
7	8	9	10	11

ANNEXURE - 14

CIT/S&S/Reg. II

Control Chart**Details regarding assessments, penalties, appeals and release of assets***List of assessments involved as a result of search*

S. No.	Name of the assessee	Assessment Years involved in Income tax	Assessment Years involved in Wealth tax	Assessment Years involved under other Acts

Details of assessments

A.	Income Tax Assessments completed:-
1	Assessment year
2	Date of completion of assessment
3	Total income assessed
4	Concealed income included in Col (3) above on account of assets/documents seized/inventorised
5	Total demand raised
6	Demand on account of additions referred to in Col. (4)
7	Collection of taxes with date (s)
8	Remarks

B. Wealth Tax Assessments:-	
1	Assessment year
2	Date of completion of assessment
3	Net wealth assessed
4	Concealed wealth included in Col (3) above on account of assets/documents seized/inventorised
5	Total demand raised
6	Demand on account of additions referred to in Col. (4)
7	Collection of taxes with date (s)
8	Remarks
C. Other Assessments:-	
1	Assessment year
2	Date of completion of assessment
3	Quantum assessed
4	Quantum included in Col (3) above on account of assets/documents seized/ inventorised
5	Total demand raised
6	Demand on account of additions referred to in Col. (4)
7	Collection of taxes with date (s)
8	Remarks

Details of penalties (separately for various taxes)

1	Assessment year
2	Section and Act under which penalty is imposed
3	Date (s) of penalty order
4	Amount of penalty imposed
5	Collection of penalty with date (s)
6	Remarks

Details of appellate proceedings (separately for various taxes)

1	Assessment year
2	Section and Act under which the order appealed against was passed by the AO
3	Date of appellate order
4	Designation of the appellate authority
5	Total income / wealth / penalty etc., sustained in appeal
6	Addition relating to material gathered during the search, and sustained, in appeal
7	Tax effect in respect of items in Col. (5)
8	Net tax demand in respect of items in col. (6)
9	Whether the appellate order has been accepted or not by the department / by the assessee
10	Remarks

Details of release of assets

1	Nature and value of assets seized
2	Date of receipt of application, if any, under section 132B (1)(i) (for release of assets) and whether it is within a period of 30 days from the end of the month in which the asset was seized
3.	Date of expiry of the period of 120 days from the date on which the last of the authorisations for search was executed.
4	Whether the release of any asset or part there of is warranted and if so
	A Date of letter to the CIT/CCIT proposing release of assets
	B No. and date of CIT/ CCIT's letter approving the releasing of assets
	C Date of actual release of assets
	D Description and value of assets released
Release of assets against Bank Guarantee accepted by the CIT	
A	Date of CIT's letter accepting the proposal to release assets against bank guarantee
B	Nature and value of assets to be released against Bank guarantee
C	Date of actual release of assets
Final release of assets	
1	No. and date of letter of CIT approving the final release of assets
2	Nature and value of assets retained
3	Nature and values of assets released
4	Date of actual release

Details of inspection and release of books of account

1	Date (s) of inspection of seized books / documents by the assessee and the S. No. of the Register of Inspection maintained by the ACIT / ITO u/s. 132 (9)
2	Date of expiry of 30 days from date of order of assessment for the purposes of seeking extension of time u/s. 132 (8)
3	Date of return of books of accounts / documents to the assessee
4	Date (s) on which proposals for retention of books are sent to CIT
5	S. No. and date of register of retention of books of accounts / documents u/s. 132 (8) when they are retained beyond the statutory time limit.

ANNEXURE - 15

CIT/S&S/Reg. III

Ledger of the Custodian (PDA)

- 1 Name and address of the assessee and telephone number
- 2 Date of search (Also give code number allotted by DIT)
- 3 AO (Give the Range also)
- 4 Addl. DIT / JDIT / DDIT/ ADIT of the Unit depositing the money

DEBIT SIDE

Date of payment to (Name of party) bank in case of adjustment	Cash book folio No.	Amount	Cheque No.	Date of encashment	Initial of the custodian
1	2	3	4	5	6

CREDIT SIDE

Date	Received from (Name of assessee)	Cash book folio No.	Amount received	Paid into PDA in Bank	
				Challan No. Amount and date	Date of credit
1	2	3	4	5	

ANNEXURE - 16
CIT / S&S / Reg. IV

Cash Book of the Custodian (PDA)

RECEIPT

Date	Received from (Name of the party)	Ledger Folio No.	Amount	No. and date of Challan for paying into PDA in Bank	Date of intimation to the AO	Initials of the custodian
1	2	3	4	5	6	7

PAYMENT

Name of assessee or Bank in case of adjustment, if any	Ledger Folio No.	Amount, cheque No. and date	Initial of the AO	Initials of the custodian
1	2	3	4	15

ANNEXURE - 17

ADDL CIT/JCIT/S&S/Reg I

**Register to be maintained by Range Addl./Joint CIT for each
Search & Seizure case including pending cases**

Name of the assessee	Date of initiation of search	Date of completion of search indicating date on which last of the authorisation for search u/s132 or requisition u/s 132A was executed	Whether case covered u/s 158 BC, 158BD, 153A or 153C	Seizure made with break-up	Disclosure, if any, u/s 132(4)
1	2	3	4	5	6

Date of passing orders for centralisation	Date of receipt of Appraisal Report	Date of receipt of seized records including copies of warrants	Date of application, if any, received for inspection and date on which inspection actually allowed	Date of issue of notice u/s 158BC, 158BC read with 158BD, 153A or 153A read with 153C	Date of filing of return u/s 158BC, 158BD, 153A, 153C and of the return for the year in which search was conducted
7	8	9	10	11	12

Date of filing of returns u/s148 in any other connected case not covered in (12)	Date on which the assessment is getting time barred	I n c o m e disclosed in returns	Details of tax paid on income disclosed in such return	Adjustment from P.D.A. if any, against tax on income disclosed in such return	Date of application, if any, from the assessee making a claim that seized assets or part thereof are explained
13	14	15	16	17	18

Details and date of decision on (18), as per newly inserted Section 132B	Date of first notice to take up assessment proceedings and also details of subsequent notices/questionnaire/hearing, etc.	Date(s) of hearing before Addl. CIT/ Joint CIT required to grant approval to block assessment	A s s e s s e d income with date of order	Tax liability on assessed income	Details of adjustment from P.D. account, after completion of block assessment with date	Whether case processed for launching prosecution and details of prosecution, if any, launched
19	20	21	22	23	24	25

ANNEXURE - 18

DGIT/DIT/S&S / Reg I

Register of TEPs to be maintained by DGIT/DIT

Sl.No.	Date of receipt of complaint	Name of Complainant	Nature of Complaint (in brief)	Person complained against	Officer to whom forwarded	Category in which placed	Manner of disposal with date

ANNEXURE - 19

S&S/ REP-I

Two Hourly Report

**Intimation to the Member (Inv.), CBDT, New Delhi,
Regarding action under section 132 of the Income-tax Act, 1961**

1.	Name and address of the assessee	
2.	Striking time and date	
3.	If operations are conducted at different places i.e. different cities are towns the names of such places	
4.	No. of premises covered	
5.	No. of warrants executed	
6.	Nature of business or profession /source of income etc.	
7.	Name & Designation of the Coordinating ADIT(Inv.)	
8.	Name & Designation of jurisdictional DIT(Inv.)	

Place:

Date:

()
Joint / Addl. Director of Income-tax(Inv.)

ANNEXURE - 20

S&S/REP-II

**FAX report to the Member (Investigation), Central Board of Direct Taxes,
Ministry of Finance, North Block, Central Secretariat, New Delhi.**

1	Code No.	
2	Date of Search	
3	Name & address of main concerns and main persons searched	
4	Particulars of Jurisdictional assessing officers	
5	No. of premises searched : a) Residential b) Business c) Business-cum-residential d) Lockers	
6	Nature of Business	
7	Number of Warrants a) Executed b) Cumulative	
8	Valuable assets seized : a) Cash b) Jewellery c) Other assets d) Under 2nd Proviso to Sec. 132(1) e) TOTAL	

9	Cumulative seizure : a) Cash b) Jewellery c) Other assets d) Under 2nd Proviso to Sec. 132(1) e) TOTAL	
10	Whether books of accounts seized	
11	Number of restraints U/s.132(3) pending	
12	Whether search is complete	
13	A brief resume of significant findings	

DIRECTOR OF INCOME TAX (INVESTIGATION)

ANNEXURE - 21

S&S/REP-III

Search and Seizure/Appraisal Reports

I. REPORT FOR THE MONTH OF.....

Sl. No.	Particulars	During the month	Up to the end of the month during the F.Y.	Corresponding period of the last Year	Total of last Financial year
1	No of groups searched				
2	No. of Warrants executed				
3	Value of assets seized (Rs. in lakhs)				
	a) Cash				
	b) Jewellery/Bullion				
	c) Others				
	d) Under Second proviso To Sec. 132(1)				
	e) TOTAL				
4	Disclosure u/s 132(4) (Rs. in lakhs)				
5	Concealment detected over and above the Disclosure (Rs. in lakhs)				

II. APPRAISAL REPORTS

No. of Appraisal Reports pending at the beginning of the month	Additions during the month	No. of Reports sent to the Assessing Officers during the month	No. of Reports pending at the end of the month	No. of Reports pending for more than 60 days (Reasons to be given separately)

ANNEXURE - 22

S&S/REP-IV

Proforma II
Search and Seizure Statistics for the F.Y. _____

No. of groups searched	No. of warrants executed	Value of assets seized (Rs. in lakhs)				
		Cash	Jewellery	Other assets	Under 2nd proviso to Section 132(1)	Total

Monthly Report on Surveys carried out by Income Tax Department

Part A: Statistical report on surveys under section 133A(1)

No. of surveys u/s 133A(1) carried out during the month	Amount of undisclosed income detected during survey (In Rs. lakhs)

Part B: Qualitative Report * on surveys u/s 133A(1)

Sl. No.	Name of the case	Date of survey	Amount of undisclosed income detected (in Rs. lakhs)	Nature of concealment detected (in brief)

* For cases in which detection of undisclosed income during survey is Rs.2 crore and above (in cases of metros) and Rs.50 lakhs and above (in cases of other stations)

Part C: Report on surveys u/s 133A(5) and other enquiries on expenditure on social occasions like marriages, parties, etc.

Sl. No.	Name of the case	Date of event	Amount of expenditure admitted (in Rs. lakhs)	Amount of expenditure estimated on enquiry (in Rs. lakhs)

Report should be sent to the Board on or before 7th of every month.

ANNEXURE - 24

S&S/REP-VI

Statistical Report on TEPs for the Month of

S. No.	Particulars	Category "X" (<i>Prima facie</i> concealed income of Rs. one crore or more)
a	No. of TEPs pending at the beginning of the month	
b	No. of fresh TEPs received during the month	
c	No. of TEPs disposed of during the month	
d	No. of TEPs pending at the end of the month i) for less than 6 months ii) for more than 6 months iii) Total	

ANNEXURE - 25

S&S/REP-VII

Investigation Quarterly Report-I

S. No.	Name of group	Date of search		No. of warrants executed	Seizure (Rs. in lakhs)			
		Date of initiation of search	Date of completion of search		Cash	Jewellery	Other assets	Total
1	2	3	4	5	6	7	8	9

Returned income (Rs. in lakh)	Tax paid in r/o Col, No.10 (Rs. in lakh)	Assessed income (Rs. in lakh)	Tax paid in r/o Col. No.10 (Rs. in lakh)	Seized assets in custody of Department (Rs. in lakh)				
				Cash	Jewellery	Maturable assets like FDs, TDs, NSCs, KVPs, etc.	Others	Total
10	11	12	13	14	15	16	17	19

Reward					
Whether informant eligible for reward	If yes, whether proposal sent to the Board with date of sending proposal	If No proposal sent, reasons thereof	Whether Depart- ment's officials eligible for reward	If yes, whether proposal sent to the Board with date of sending proposal	If No proposal sent, reasons thereof
20	21	22	23	24	25

ANNEXURE - 26

S&S/ REP-VIII

Investigation Quarterly Report-II

S. No.	Name of the group	Date of search	No. of search cases for assessment	No. of search cases assessed out of (4) during the year	No. of search cases pending for assessment at end of year
1	2	3	4	5	6

No. of cases out of (4) pending in appeal				Returned income	Assessed income (Please indicate after appeal effects, if any, and Appeals pending
Before CIT(A)	Before ITAT	Before HC/SC	Before Settlement Commission u/s 245D(4)		
7	8	9	10	11	12

Tax on assessed income		Collection			
Payable	Paid	Adjustment from PD A/c	Adjustment of other seized assets	Collection made otherwise	Total collection
13	14	15	16	17	18

In case application before Settlement Commission admitted u/s 245D(4)					
Income admitted	Tax payable on (19)	Tax paid	Final income assessed u/s 245D(4)	Tax payable on (22)	Tax paid
19	20	21	22	23	24

Penalty		Prosecution launched and compounding			
For concealment	Others	Launched		Compounding	
		u/s 276 C	Others	Out of 27	Out of 28
25	26	27	28	29	30

Appropriation / Release of seized assets, if any			
Date of appropriation/ release of cash from PD A/c	Date of appropriation / release of jewellery	Date of appropriation / release of cash from other assets	If not released reasons thereof
31	32	33	34

ANNEXURE - 27

S&S/ REP-IX

Report Regarding the Deposit of the Seized Cash into the PDA

Sl. No.	Name of the Party	Amount	Date of Seizure	Date on which remittance received from outstation Authorised Officer (if applicable)	Date of deposit in the P.D. a/c	Date of receipt of challan by the custodian
1.	2.	3.	4.	5.	6.	7.

Custodian
for
Commissioner of Income tax

ANNEXURE - 28

S&S/REP-X

Statement of Assets Released by the Custodian (Strong Room)

S. No.	AO/JCIT/CIT concerned	Name of assessee /party	Date of search	Date of release
1	2	3	4	5

Assets returned during the month (Give value, wherever applicable)				Reasons for return
Cash	Bullion	Jewellery	Others	
6	7	8	9	10

ANNEXURE - 29

S&S/ REP-XI

MIS on Investigation Cases

Report sent by DGIT/CCIT(Central)

For the month (mm/yy)

S.No.	Item	
	A: Identity Particulars of Group.	
1	Name of the Group	
2	Flagship concern	
3	Nature of main business activity	
4	Reasons for inclusion in watch list	
	4.1 Financial (admitted undisclosed income above Rs. 10 crore for Delhi, Mumbai, Channai, Kolkata, Ahmedabad, Bangalore, Hyderabad & Pune and Rs. 5 crore for other regions; or seizure of assets above Rs. 5 crore for Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Bangalore, Hyderabad & Pune and Rs. 2 crores for other Regions (Mention amount)	
	4.2 Sensitive case	Yes/ No
5	DIT (Inv.) concerned	
	B: Particulars of Search Action	
6	Date of commencement of search/reference u/s 132A	
7	Date of completion of search	
8	Total Seizure (Rs. Lakh)	
9	Undisclosed income admitted during	
	PAN	Name
		Income admitted
10	Significant findings of search action (as reported in Telex Report)	

C: Post-search action by the Investigation Wing				
11	Date of Appraisal Report			
12	Assessee-wise particulars of tax paid on undisclosed income admitted as referred to in column 9 (in Rs. lakh)			
12.1	PAN	Name	Income disclosed	Taxes paid
12.2				
12.3				
	Total			
D: Assessments				
13	Name and PAN of main concerns/ persons of the group			
13.1	Name	PAN	Assessment Years for which assessments are completed	Assessment Years for which assessments are pending
13.2				
13.3				
13.4				
14	Date of Centralization of main cases			

MIS ON INVESTIGATION CASES**E: Comments**

15	DGIT(Inv.)/ CCIT (Central)
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Feed-bak on Disseminated Information

1.	FEED-BACK DETAILS		Y-Yes, N-No, NA-Not ascertainable	
	1.1	FIU-IND Case Reference Number		
	1.2	Is this first feedback on this case?		Y/N
	1.3	Was the information found useful?		Y/N/NA
2.	USEFULNESS OF INFORMATION		Y-Yes, N-No, NA-Not ascertainable	
	2.1	Identification of a new case		Y/N/NA
	2.2	Investigation of an existing case		Y/N/NA
	2.3	Identification of unexplained assets		Y/N/NA
	2.4	Initiation of prosecution		Y/N/NA
	2.5	Assistance in ongoing prosecution		Y/N/NA
3.	ACTION TAKEN STATUS		N-Not initiated, U-Under progress, C-Completed	
	3.1	Inquiry/ Investigation		N/U/C
	3.2	Search		N/U/C
	3.3	FIR		N/U/C
	3.4	Arrest		N/U/C
	3.5	Prosecution		N/U/C
4.	OUTCOME STATUS		Amount in Rupees	
	4.1	Unaccounted assets / Income identified		
	4.2	Assets seized / attached		
	4.3	Assets confiscated		

	4.4	Taxes / demands / Dues imposed		
	4.5	Penalties / Fines imposed		
5.	COMMENTS /SUGGESTIONS			
6.	DETAILS OF OFFICER FILLING THE FORM			
	6.1	Name of Officer		
	6.2	Designation		
	6.3	Place		
	6.4	Name of Department / Agency		
	6.5	Contact telephone		
	6.6	Date		
<p>Instructions:</p> <p>i] FIU - IND Case reference number is given in the report disseminated by FIU - IND.</p> <p>ii] First feed-back may be provided within 45 days of date of dissemination of information.</p> <p>iii] Supplementary feed-back may be sent as and when any information mentioned in section 3 and 4 is changed.</p> <p>iv] Completed form may be sent to the nodal officer of the department / agency.</p> <p>v] Soft copy of this form is available at www. fiuindia.gov.in</p>				
For FIU IND Use Only				

ANNEXURE - 31

SS(F)-1

Form of statement for furnishing information regarding Income/ wealth not disclosed to the department by the informant (as given in Guidelines for grant of reward to informants, 1993)

1. Full Name of the informant (in block capital letters)
2. Full address of the informant
3. Name of person/persons in respect of whom the information is furnished
4. Address of person/persons in respect of whom the information is furnished
- 5.* Full particulars of:
 - (a) nature, source and extent of undisclosed income/wealth/gift/Estate
 - (b) nature, location and estimated value of undisclosed assets;
 - (c) method of concealment;
 - (d) period to which the concealment relates
6. Particulars of documents furnished, if any
 - (a) in original
 - (b) copy only
7. Source of information:-
 - (a) Whether the information has been acquired personally in the capacity of an employee, relation or partner etc., of the person mentioned at (3) above
 - (b) Whether information has been acquired through some other person, if so, his connection with the person at (3) above

* The Information furnished should be reliable, definite and precise, and full to the extent known to the informant, if the space available here is not found sufficient additional sheet may be attached.
8. Declaration:-

I declare that

 - (a) I am aware that the information or document furnished by me do not *ipso facto* confer on me a right to any reward, and that I

would be bound by any decision the authority competent to grant rewards may take.

- (b) I am aware that the extent of the reward depends on the precision of the information and usefulness of the documents furnished by me.
- (c) I am aware that the reward would pertain only to as much of the extra taxes levied/ realised as are directly attributable to the information supplied by me.
- (d) The provisions of section 182 of the Indian Penal Code have been read by me or explained to me and I am aware that if the information furnished by me is found to be false, I would be liable to prosecution.
- (e) I accept that the Government is under no obligation to enter into any correspondence regarding the details of additions made and taxes realised as a result of my information.
- (f) I accept that payment of reward is ex-gratia in the absolute discretion of the authority competent to grant reward and I have no right to dispute the correctness of the decision in any court of law.
- (g) In the event of my death before the reward is paid to me, it may be paid to

Signature of the informant
Informant's No., if any.

Signature of the officer before
whom the statement is signed

Designation of the officer

Date :

Place:

ANNEXURE - 32

SS(F)-2

Secret**Proforma for requisitioning Police assistance to search parties**

The Commissioner of Police/
Superintendent of Police

.....

.....

Sir,

The Income-tax Department is contemplating taking certain action under Sec. 132 of the Income-tax Act. As the place proposed to be covered is in a sensitive locality and it is expected that the person occupying the premises might offer resistance, I am to request you to make available police assistance to Income-tax personnel carrying out the duties under section 132 of the Income-tax Act, 1961 Sub-Inspectors, Head Constables and Policemen, all armed, may be directed to report to Shri (name. and designation) on(date) at (Place) at (Time) positively for further instructions.

2. The request for assistance is being made under express powers granted under sec. 132 of the Income-tax Act, 1961.

3. Kindly treat this information as very confidential and the personnel designated for this work may be intimated of their assignment and destinations giving them just enough time to report to Shri

(Name and Designation)
DIT/CIT/Addl.DIT/JDIT/DDIT/ADIT

Date

Place

ANNEXURE - 33

SS(F)-3

Operation Chart

1. DIT's Code No.
2. Serial No. of the Search Party
3. No. of warrants issued
4. Name and address of the person searched
5. Leader of the Search Party
6. Other authorised officers (by name)
7. Total No. of officers and staff
8. Strength of Police party accompanying
9. Distinctive number(s) of Brass Seals issued
10. Telephone Numbers of party or C/o. Telephone numbers.

11.	Time	Message		Details of message		Action taken on the message	Remarks
		From	To	From	To		
	1	2		3		4	5

12. Time of exit from the premises after conclusion of search
13. Time of reporting the control room
14. Preliminary report received
15. Whether search completed or not?
16. Statement of expenditure received.

ANNEXURE - 34

SS(F)-4

**Form for request to the Police authorities
for assistance /guard duty**

Place:

Date:

The Officer-in-charge

_____Police Station

Sir,

Sub : Search under Sec. 132 of the Income-tax Act, 1961 - Request for police assistance for search/guarding sealed premises - regarding

Under a warrant of authorisation issued u/s 132 of the Income-tax Act, 1961, I am, along with other officers of the Income-tax Department, searching the premises at

2. I shall be obliged if you can depute Head Constables and Police men to assist me in carrying out the search.

3. We have sealed the said premises and have placed prohibitory orders u/s 132 (3) on the owner/occupants of the premises. Since the seals placed by us have to be guarded round the clock, I would request you to kindly arrange to post immediately Police guards / armed police guards at the above place till we resume the search operations and till our search operations are concluded.

I would be very grateful for your kind co-operation and prompt action in the matter.

Yours faithfully

Officer authorised u/s 132
of the Income-tax Act, 1961
Telephone No.....

ANNEXURE - 35

SS(F)-5

**Order under Rules 112 (6) of I.T. Rules, 1962 read with
Section 132 of the I.T. Act, 1961**

To

.....

.....

Whereas the undersigned has been authorised to make a search u/s 132 of I.T. Act, 1961 and your services are forthwith required as a witness for the said search, you are hereby directed to attend and witness the search and not to depart till such time as the search is complete.

This order is issued under Rule 112 (6) of I.T. Rules 1962, read with section 132 of the Income Tax Act, 1961.

Signatures:

Designation:

Date:

SEAL

NOTE: The following provisions of law are reproduced below for the ' information of the witness.

Rule 112(6) : Before making a search, the authorised officer shall,

- (a) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and
- (b) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons, to attend and witness the search and may issue an order in writing to them or any of them so to do.

Rule 112(7) : The search shall be made in the presence, of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found, shall be prepared by the authorised officer and signed by such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under the Indian Income-tax Act, 1922(11 of 1922), or the Act unless specially summoned.

Section 103(5) of Cr. P.C. : Any person who without reasonable cause, refuses or neglects to attend as witness a search under this section when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of Indian Penal Code (45 of 1960).

ANNEXURE - 36**SS(F)-6**

Search Party Number

Panchnama

(To be prepared in triplicate)

(A) Warrant in the case of :

(B) Warrant to search
(Details & Ownership of place of search)
Telephone Numbers

(C) (A) and (B) stated to be assessed by (A)

(B)

(D) Search Party consisting of

Authorised Officers	Name	Full Designation
------------------------	------	------------------

1.
2.
3.
4.

Other officials who assisted the authorised officers	Name	Full Designation
---------------------------------------------------------------	------	------------------

1
2
3
4

(E) Name and Complete address of Panchas:	Name	Address
-------------------------------------------------	------	---------

1.
2.

On being called by Shri on at A.M./P.M., we the above named Panchas, presented ourselves at the above place of search. The Authorised Officer, Shri showed the warrant of authorisation dated issued under section 132 of the Income-Tax Act, 1961/37A of the W. T. Act, 1957 in the case of (A) above, to search the place mentioned at (B) above and duly signed and sealed by the Director of Income- Tax/Commissioner

of Income-Tax/Joint Director of Income-Tax (Investigation)/Joint Commissioner of Income-tax to Shri/Smt who was present in the said place at the time and who after reading the said authorisation /after the authorisation was explained in local language viz., by Shri/ Smt signed it in our presence and along with us in token of having perused the same.

2. As today's search was in continuance of the proceedings onwe, along with the aforesaid officers, before the commencement of proceedings today, inspected the seals which had been placed on that date and found them to be intact/tampered with as narrated in the enclosure

3. The above mentioned search party offered themselves for personal search before commencing the search, which was taken/declined.

4. A search of the above-mentioned place was carried out by the said party in our presence in an orderly manner without hurting the sentiments of anyone.

5. In the course of the search.

(a) The following were found and seized:

- i) Books of account and documents as per inventory in annexure 'A' (..... sheets)
- ii) Bullion i.e. gold, silver etc. as per inventory in annexure 'B' (..... sheets)
- iii) Cash as per annexure 'C' (..... sheets)
- iv) Jewellery, ornaments etc. which have been inventorised separately for each place from where recovered, as per annex. 'J' (..... sheets).
- v) Silver articles and silverware as per inventory in annexure 'S' (..... sheets)
- vi) Other valuables, locker keys, F.D.Rs etc. as per inventory in annexure 'O' (..... sheets)
- vii) Other valuables or articles deemed to have been seized under second proviso to Sec. 132 (1) of-the I.T. Act as per annex 'N' (..... sheets).

NOTE: In respect of (i) to (vii) above, number of sheets forming the inventory only to be given.

(b) The following were found but not seized:

- i) Books of account and documents as per annexure..... Marks of identification were placed on these and the specimen of the marks and the pages where these have been placed are shown in the inventory prepared.
- ii) The other valuable articles or things (including money) as per annexure 2, 3,..... Separate inventories of jewellery, ornaments, silverware etc. were prepared for items found in different places or claimed to be belonging to different persons).

6. In the course of the search, the authorised officer Shri recorded the statement(s) of Shri/ Smt./ Km. andon solemn affirmation / oath, in our presence. No coercion, threat, inducement, promise or other undue influence was brought to bear on the above deponent(s). The statement was read over/explained in the local language viz. to the deponent who signed the statement in token of having understood its content and of agreeing that it had been correctly recorded.

The deponent has made a statement under Explanation 5 to Section 271 (1) (c) of I. T. Act/18 (1) (c) of W. T. Act about unaccounted assets and income of Rs.

7. The following other important persons were present in the place of search and either took an active part in or helped in the search proceedings:

Name	Relationship
------	--------------

8. The search commenced on at A.M./ P.M. The proceedings were closed on at A.M./ P.M. as finally concluded /as temporarily concluded for the day to be commenced subsequently for which purpose seals were placed on the entire place/ onin our presence.

9. An order under section 132 (3) of the I.T. Act, 1961 in respect of the sealed premises/ lockers/ bank A/c / any other (specify)..... was served on Shri/Smt by the said authorised officer.

10. An order under second proviso to Section 132 (1) was served on Shri/Smt by the said Authorised Officer. (Annexure 'N').

11. Before leaving the above mentioned place of search, the entire search party again offered themselves for personal search which was taken/ declined. The above panchnama has been read by us/explained to us in local language by Shri/Smt and it is certified that it has been correctly recorded.

Signature of the Panchas with dates:

1.

2.

Signature of the
Authorised officer

Name:

Designation:

Date:

SEAL

Signature of the person receiving
the copy of Panchnama

Name

Person in relationship with the
person referred to at 'A' above

Date:

ANNEXURE - 37**SS(F)-7**

Annexure Page.....

Date of search / survey.....

List / Inventory of Books of account, documents etc. found / seized

List of books of account, documents etc, found/seized in the case of M/s./Shri/Smt

at

S. No.	Description	Total Pages	Written Pages	Period written for From..... To.....	Pages on which identification marks placed

Total Number of items of books of account, documents etc. on this page: Total up to this page:	Specimen marks of identification placed on various pages listed out

Signature of Panchas (In case of search only)		Signature of Officers authorised to search/survey (with name and designation)		Signature of the Party (with name and position)	
1		1		1	
2		2		2	

ANNEXURE - 38**SS(F)-8**

Annexure.....Page.....

Date of Search / Survey.....

List / Inventory of Jewellery etc. found / seized

List of bullion (primary gold, silver etc.)/gold ornaments and jewellery/silver articles found/seized in the case of M/s/Shri/Smt.
 at..... Specific place where found

Item claimed to be belonging to

S.No.	Description of the articles	No.	Metal	Gross wt.	Estimated Net wt	Value Rs.
Total (wherever applicable)						

Signature of Panchas (In case of search only)	Signature of Authorised Officers for search / Survey (with name and designation)	Signature of the Party
	1	1
	2	2

- Note: 1. Separate lists to be prepared for items found at different places claimed to be belonging to different persons.
 2. Ornaments on body of persons should be indicated separately person wise.

ANNEXURE - 39**SS(F)-9**

Annexure.....Page

Date of Search / Survey.....

Inventory of cash found / seized

Particulars of cash found/seized in the case of M/s/Shri/Smt.
 at
 during the course of search/survey.

S.No.	Bundle No.	Denomination	No. of. Pieces	Amount
Total (wherever applicable)				

Signature of Panchas (In case of search only)	Signature of Authorised Officers for search/survey (with name and designation)	Signature of the Party (with name and position)
	1	1
	2	2

ANNEXURE - 40**SS(F)-10**

Annexure.....Page

Date of Search / Survey.....

List / Inventory of other assets found / seized

In the case of M/s / Shri / Smt.
 at Specific place
 where found items claimed to be belonging to

S.No.	Description of the articles	No.	Metal (if applicable)	Gross wt. (if applicable)	Estimated Net wt. (if applicable)	Value Rs.
Total (wherever applicable)						

Signature of Panchas (In case of search only)	Signature of Authorised Officers for search/survey (with name and designation)	Signature of the Party (with name and designation)
	1	1
	2	2

Note: 1. Separate lists to be prepared for items found at different places claimed to be belonging to different persons.

ANNEXURE - 41**SS(F)-11**

Annexure.....Page

Date of Search

Inventory of Stocks found / restrained at the premises

In the case of M/s/Shri/Smt.
 at Specific place where found
 Items claimed to be belonging to

S.No.	Description	Quantity in No. or weight	Value	Basis of Value	Remarks
Total (wherever applicable)					

Signature of Person in whose custody the stocks were found	Signature of Officers authorised to search/survey (with name and designation)	Signature of the Panchas
	1	1
	2	2

(iv) Silver articles					
(v) Foreign Exchange (name & amount of the currency)					
(vi) Other valuable articles (Specify)					
(vii) Important incriminating documents (Give brief particulars)					
(viii) Regarding Jewellery/Bullion/Foreign exchange/imported articles held in Contravention of law, whether the Gold Control/Customs Enforcement authorities etc. have been informed and if so, particulars of the seizures if any, effected by them.					

7 Places sealed u/s (132) (3)

(i) Lockers	Name, address and Branch of the bank	Locker No	Locker Key No	Name of the locker holder(s)
(ii) Residence/ Office/ Godowns etc.	Address of the place	Nature of the place sealed	Name of the persons on whom orders served	Whether Police Guard arranged

8. List of papers and items handed over to the Control Room

	Sealed Packets	Unsealed packets, bundles files etc	Unused and part used kits in number
i]			
ii]			
iii]			
iv]			
v]			

9. Highlight of important points made in statements u/s 132(4)

10. Reference to important incriminating documents seized, with remarks

11. Other comments, if any

Date:

Time:

Signature & Name of the
authorised officer-in-charge:

ANNEXURE - 43

SS(F)-13

**Receipt to be given by the Custodian
(Control room) to the authorised officer**

Received unused/part-used Kits sealed packets
(S. Nos.)..... unsealed packets / bundles of books of account and
documents (S. Nos.....) andfiles and folder (S. No.).

Signature & Name of the Custodian (Control room) receiving as above

Date:

Time:

- Note: (1) This report should be prepared in duplicate by the authorised officer in-charge and handed over to the Custodian (Control Room) immediately after the search and the signature of the recipient should be obtained on one copy.
- (2) A detailed authorised officers' report describing the important events and salient features of the search should also be given along with Panchnama, enclosures, and warrant of authorisation.

ANNEXURE - 44

SS(F)-14

**Identification slip to be attached to
seized material packets**

Party No

One sealed/unsealed packet/bundle containing **.....

(Description, quantity and value)

Seized on from
 (person/concern) at
 (place of search)

under warrant in the case of

Assessed in the charge of CIT By
 ACIT/ITO Ward / Circle under GIR No./PAN
 by party No. consisting of (name and full designation)
 delivered to Shri/Smt. Custodian
 (Control room) (Give designation also).

** In the case of books of account, files, etc. state the number of books, files etc. in
 each bundle.

ANNEXURE - 45

SS(F)-15

**Panchnama prepared at the time of
valuation of jewellery etc.**

Name and address of the Panchas:

- 1.
- 2.

On being called by Shri/Smt. on the
at A.M./P.M., we the above Panchas presented ourselves at
..... The trunk box / bag(s) containing jewellery seized
from..... in the case of
..... on was opened in the
presence of S/Shri The seals on the trunk / box / bag(s)
were found to be intact. The jewellery items which were inventorised as
..... dated were taken out in our
presence & valued by Shri the approved Valuer
and have now been inventorised as items as per
annexure (s) to this panchnama. The following points are noted:

The jewellery items were put back in the trunk / box / bag(s), which was
later locked and sealed in our presence. S/Shri
and we were present throughout the proceedings and put our signatures on
the sealed lock of the trunk/box bag(s).

- * The valuation was commenced / recommenced at A.M./P.M.
and was completed at A.M./P.M. on the
- * The valuation was commenced at A.M./P.M. on and was
concluded for the day to be continued later.

*(Strike off whichever is not applicable)

Signature of the Panchas :

Dated :

- 1.
- 2.

Signature:
Date:

Signature with date:
(Assessee/representative of the assessee
receiving a copy of the Panchnama with
Annexures)

(Approved Valuer)

Signature:
Date:

(Authorised Officer)

ANNEXURE - 46

SS(F)-16

**Proforma for intimation to other enforcement
agencies regarding the search/seizure**

Sir,

Sub: Search & Seizure u/s 132 of the Income-tax Act - Information - reg.

This is to confirm the information already conveyed to you about a search which was conducted by the Income-tax Department on an authorisation issued by the D.I.T./C.I.T. on

1. Place of Search
2. Persons Searched
3. Allegation in brief with particular reference to the department concerned
4. Bullion/Gold ornaments
 - (i) Found:
 - (ii) Seized:
5. Foreign Exchange:
 - (i) Found:
 - (ii) Seized:
6. Stocks of excisable goods found:
7. Other articles:
 - (i) Found:
 - (ii) Seized:

The Authorised Officer Shri has already conveyed the above information to Shri.....on during the course of search.

Yours faithfully,

ADIT/DDIT

ANNEXURE - 47**SS(F)-17****Income tax Department
Locker Sealing Slip**

Locker No. Sealed on
at A.M./P.M. by authorised officers under warrant No. () issued by
D.I.T.(Inv.)/C.I.T/JDIT:

S.No.	Name	Designation	Tel. No.
1.			
2.			
3.			

Note : The owner may kindly contact the Addl. Director/Joint Director of
Income/tax (Inv.) for further action.

ANNEXURE - 48

SS(F)-18

Proforma of Identification Tag

(To be placed on each bag)

Full name and address from whose premises seizure was made	Date of seizure	No. of packages kept in the bag	Date of deposit in strong room/ Bank	Signatures of the custodian(s) operating the Strong Room

ANNEXURE - 49

SS(F)-19

Proforma of Deposit Memo for Seized Goods

(To be prepared in duplicate)

The Officer-in-charge,
Police Station,
.....

Please receive for safe custody in your Police Station the goods described below which were seized from
(name of person from whom seizure effected)
of (address) seized by me/Shri (name of the officer) on (date)..... at (time) under warrant issued by the Director of Income-tax/Commissioner of Income-tax, under sec. 132 of the Income-tax Act, 1961.

The packets have been duly sealed with my seal / the seal of

Description of Seized Packets:

Sl.No	Description	Quantity	Value	Remarks

The above goods deposited with you for safe custody will be withdrawn as soon as possible, after alternate arrangements are made for permanent safe custody of the valuables seized.

Signature of the Officer
depositing goods/Custodian
Designation:
Date:

RECEIVED the sealed packages described above.

Signature of the Officer-in-charge of the Police
Station receiving the goods for safe custody
Designation:
Date:

RECEIVED back the seized goods described above from the Officer-in-charge
Police Station

Signature of the Officer receiving back the
above seized goods
Designation:
Date:

ANNEXURE - 50

SS(F)-20

(Obverse)

Challan of money paid into Reserve Bank / State Bank of India

T.R. 6

Civil
Railway
Post and Telegraph

P.D. Account Number of CIT

Challan No.

To be filled in by the Remitter				To be filled in by the Departmental Officer or at his instance		
Name (and or designation) and address of the party (i.e. taxpayer, etc.) crediting money	Department/ Office from whose books the demand emanated	Full particulars of the nature of remittance and/or authority (If any)	Amount Rs. Ps.	Head of Account	Accounts Officer by whom adjustable	Order to the Bank

Total (In words) Rupees:

Received payment (in words) Rupees

Date:

Agent or Manager/Officer of the Bank

(Reverse)

(2)

Particulars to be filled in by the Remitter	Amount Rs. Ps.
CERTIFIED THAT THIS IS A BONAFIDE GOVERNMENT TRANSACTION	
TOTAL	

ANNEXURE - 51**SS(F)-21****Record of Proceedings Under Section 132A
of the Income-Tax Act, 1961**

1. The Authorised Officer/Shri/Smt./Kum. showed to Shri/Smt./Kum. the requisition under section 132A of the I. T. Act, 1961, dated duly signed and sealed by Director of Income tax/ Commissioner of Income-tax issued in the case of requiring the latter, being the authority who had taken into custody certain books of account/documents/cash/jewellery/other assets in the said case, to deliver the same to the former, the officer authorised to take over the said books of account / documents/valuables u/s 132A of the Income tax Act, 1961

2. The said Shri/Smt./Kum. after reading the said requisition U/S 132A of the I. T. Act, 1961 put his/her signature on it in token of having perused the same. The requisition proceedings then commenced.

3. The following books of account/documents/cash /jewellery/other assets were delivered by the said Shri/Smt./Kum to the authorised officer Shri/Smt./Kum.

Documents as per Annexure	
Jewellery as per Annexure	
Cash as per Annexure	
Other assets as per Annexure	

4. The proceedings commenced at A.M./P.M. on and were concluded at A.M./P.M. on.....

Delivering Officer

Signature
Date
Name
Designation
Seal

Receiving Officer

Signature
Date
Name
Designation
Seal

ANNEXURE - 52

SS(F)-22

**Order under section 132 (3) of the
Income tax Act, 1961**

To
Shri/M/s

Whereas in terms of Warrant of Authorisation issued by the DGIT/CCIT/CIT/DIT/JDIT under section 132 (1) of the Income-tax Act, 1961, I have been authorised to seize books of account, other documents, money, bullion, jewellery or other valuable articles or things found as a result of the search at the premises owned/occupied by and whereas I am of the opinion that it is not practicable to seize the books of account, other documents, money, bullion, jewellery or other valuable articles or things described on the obverse, I, in exercise of the authority conferred in me by section 132(3) of the Income tax Act, 1961, hereby order you not to remove, part with or otherwise deal with the articles mentioned on the obverse without my previous permission in writing.

Signature of the
Authorised Officer
Date

Note: Failure on your part to comply with the terms of this order will render you liable to fine and prosecution U/S 275A of I.T. Act, 1961.

(OBVERSE)

S. No.	Particulars of the books of account other documents money, bullion jewellery or other valuable articles or things	Receptacle in which placed	Marks of identification in presence of witnesses	Specimen of seal used in identification/sealing

Name, address &
signature of witnesses

Signature of the
authorised officer

- 1.
- 2.

Signature of the party searched
Date:

ANNEXURE - 53

SS(F)-23

**Order under second proviso to section 132(1)
of the Income tax Act, 1961**

To
Shri/M/s

Whereas in terms of Warrant of Authorisation issued by the DGIT/CCIT/CIT/DIT/JDIT under section 132 (1) of the Income-tax Act, 1961, I have been authorised to seize books of account, other documents, money, bullion jewellery or other valuable articles or things found as a result of the search at the premises owned/occupied by and whereas I am of the opinion that it is not possible/practicable to take physical possession of the valuable articles or things mentioned on the obverse due to, I in exercise of the authority conferred in me by section 132 (1) of the Income Tax Act, 1961, hereby order you not to remove, part with or otherwise deal with the valuable articles or things mentioned on the obverse without my previous permission in writing.

The service of this order is tantamount to deemed seizure of valuable articles or things under second proviso to Section 132 (1) of Income tax, Act.

Signature of the Authorised Officer

Note: Failure on your part to comply with the terms of this order will render you liable for prosecution under the relevant provisions of the Indian Penal Code.

(OBVERSE)

S. No.	Particulars of the books of account other documents money, bullion jewellery or other valuable articles or things	Receptacle in which placed	Marks of identification in presence of witnesses	Specimen of seal used in identification/sealing

Name, address &
signature of witnesses

Signature of the
authorised officer

1.

2.

Signature of the party searched

Date:

ANNEXURE - 54

SS(F)-24

VOUCHERS FOR SEARCH EXPENSES		
Note: This voucher should be prepared in duplicate and one copy should be submitted to the Addl.DIT's Office next day after the search. If any money is refunded, signature should be taken on the other copy meant for the Authorised Officer.	For Office use Voucher No Claimed under search/survey expenses Bill No	

Dated:

The Addl. Director of Income Tax (Inv.)

Sub:Expenses incurred by party No..... in action u/s 132/133A in the case of
 at..... (place of search)
 on

Details of actual expenses are as under.

Transport:

Lunch/Dinner:

Other expenses:

Total expenses incurred:

Less: advance received:

Balance payable/refundable:

The amount of Rs..... Is refunded herewith. The balance amount of
 Rs.may please be paid.

Signature:

Name:

Designation of the
Authorised Officer:

Receipt for Excess
 Amount spent
 Received from
 Addl.D.I.T. (Inv.)
 Rs.

Receipt for refund
 of excess advance
 Received Rs.....

Office Use
 Received Rs.....
 Paid Rs.

Signature, Name & Designation
 of the person receiving/paying
 Date

ANNEXURE - 55

SS(F)-25

**Proposal for reward to Officers and Staff
in Search and seizure Case of**

.....

1	Name of the assessee	
2	Date of search	
3	Total seizure (i) cash (ii) jewellery (iii) other assets (iv) Total Seizure	
4	Rule under which the case is covered	
5	Value of assets retained as per order u/s 132(5)	
6	Amount of additions made	
7	Amount of concealment/admitted tax paid	
8	Date of filing the return	
9	Date of assessment	
10	Whether the information was supplied by the informer	
11	If yes, the amount of reward paid/proposed to be paid to the informant	
12	Maximum reward payable	
13	Reward proposed	
14	Whether the proposal is for interim reward or final reward	
15	Payment of taxes (a) Total tax demand raised (b) Tax demand realised (c) Balance tax demand	
16	Whether penalty under the Act has been imposed?	
17	Whether prosecution has been launched?	
18	Brief particulars of the case and income declared by the assessee	
19	List of search party involved in the action	
20	List of Add DIT/JDIT/DDIT/ADIT/Inspectors of the Investigation wing who processed the case	
21	List of staff members of Investigation wing	
22	List of officers/staff to share the reward in the ratio of 60% and 40% as per reward guidelines	
23	Comments on the individual performance	

ANNEXURE - 56

Checklist for conducting searches**Till the issue of authorisation**

1	Has the satisfaction note been recorded properly?
2	Has the correct statutory form of search warrant been used?
3	Is the officer issuing the warrant empowered to do so?
4	Is the name or names of the person/persons in respect of whom the search is authorised, clearly stated?
5	Is the address/description of the premises to be searched properly given?
6	Has the form been signed by the issuing authority with date and his official seal?
7	Have the non-applicable portions of the form of authorisation been struck off?
8	Have the names of authorized officers been filled up?
9	Has the entry been made in the register of search warrants issued?

After the issue of authorisation

1	Was the authorisation received by the leader in sealed envelope?
2	Was the time of strike and time of opening the envelope written on the envelope?
3	Did the leader identify all his team members?
4	Did the leader ask anyone of the members to collect search kit?
5	Did that member collect search kit, check it and report that he had collected the kit to the leader?
6	Did each member of search party have his identity card?
7	Did each officer have his rubber seal giving his name and designation?
8	Did the leader collect brass seal from Addl.DIT/JDIT/DDIT/ADIT?
9	Did the leader collect necessary funds, from Addl.DIT/JDIT/DDIT/ADIT before leaving for premises to be searched?
10	Did the telephone numbers of control room and mobile phone numbers of ADIT/DDIT/JDIT given to the team leader?

11	Did the Control room have the mobile phone numbers of the team leader?
12	Were suitable instructions for switching off of mobile phones by the members of the search party given to the persons concerned?
13	Were the team leaders suitably instructed that they should take the possession of mobile phones of the drivers of vehicles and switch these off before starting for the destination?
14	Were vehicle(s) available for transporting search party to the search premises?
15	Was sufficient protection force made available to the leader by Addl.DIT/JDIT/DDIT/ADIT?
16	Was leader briefed by Addl.DIT/JDIT/DDIT/ADIT about the premises to be searched?
17	Did leader and other members of the team remain together till they boarded vehicle(s) to proceed to the premise to be searched?
18	Was authorisation envelope opened as per instruction on it?
19	Was opening of the envelope witnessed by one more authorised officer?
20	Have the leader and the other authorised officer signed on the envelope in support of (19)?
21	Was the authorisation signed and sealed by DIT/CIT?
23	Was the name and address of the party to be searched correctly mentioned on the warrant?
24	Was there a map to act as guide for reaching premises?
25	Did ADIT/Inspector accompany the search party to identify premises?
26	Was there a written brief accompanying the authorisation?
27	Was the brief read by each officer of the search party while moving to the premises?
28	Did the search party stop a little distance from the premises, which was to be searched?
29	Were two members of the search party sent to <i>reconnoitre</i> (locate) the premises?

30	Were two independent witnesses made available before the search?
31	How much time did it take for the two members to return to you after reconnaissance?
32	Was the premises to be searched found locked?
33	If 'Yes', was the Control Room informed of this position?
34	Did you thereafter act as per advice from Control Room?
36	Did you cover, before effecting entry, the premises to be searched from all sides including all entrances and exits: (a) With police personnel only Yes/No (b) With departmental personnel only Yes/No (c) With a combination of (a) & (b) Yes/No.
37	Was there any difficulty in executing the warrant?
38	Did the party to be searched sign the warrant in token of his having been shown the authorisation?
39	Did each member of the search party offer himself for personal search?
40	Did you take over the control of the telephone(s), mobiles etc.?
41	Was a copy of the Taxpayer's Charter containing rights and duties of the person being searched given to him?
42	Did you take necessary precaution to keep persons in the premises from tampering with/destroying documents , books of accounts etc.?
43	Was it ensured that no one was allowed to operate any computers or other electronic data storage devices except in presence of expert from the Department?
44	Were any children present who were allowed to go to their school(s)?
45	Was the time of strike reported to the Control Room?
46	Was the searched party apprised of the legal provisions enabling surrender?
47	Was the preliminary statement of the searched party recorded?
48	Was the information revealed in the statement about lockers, bank a/cs., business, godowns etc. intimated to the Control Room?
49	At what time was the information in above intimated?

50	Was the room wise search done in the presence of the witnesses?
51	Was the searched party questioned in respect of the cash, jewellery, documents, books of account, computers and other data storage devices found?
52	Was the questioning undertaken along with completion of search of each room?
53	After the unaccounted jewellery was identified, did you contact the Control Room for availing of the services of a Valuer?
54	Were the services of a computer expert required and if so, was the control room informed about it in time?
55	Were copies of hard disk and other data storage devices properly made and sealed for future retrieval of data?
56	Was there any information of importance discovered in the search and questioning of the persons searched? If so, whether the same was passed on to the control room?
57	Did the Control Room provide you with any additional information during the course of the search?
58	Were the documents and books of account found scrutinized to identify those that needed to be seized? Did the Leader of the team depute a group of two officers for this purpose?
59	Did the leader confirm and check up if the entire premises to search had really been searched?
60	Was the searched party finally questioned about the important assets, documents, books of accounts, data storage devices etc. discovered as a result of the search?
61	Were duplicate sets of account books discovered?
62	Have these and the originals been seized?
63	Were the statements recorded earlier kept in view while recording the final statement to pinpoint factual deviations, if any?
64	Where the searched party admitted to having locker(s), were the key(s) taken possession of?
65	Where during the search, locker key(s) are found, was the Control Room intimated for necessary action being taken?
66	Was the unaccounted jewellery listed and placed in a sealed packet for seizure person wise, or room wise?

67	Was there any untoward incident during the search?
68	Was the Control Room informed of such incident?
69	Did the Control Room respond to your intimation?
70	In case of any violations of other laws, was the Control room informed and whether any other Law enforcement agency was informed?
71	In case of any prohibitory order u/s 132(3), whether proper guards have been posted for it's safety?
72	Before leaving the premises did you get a clearance from the Control Room?
73	Before leaving the premises did each member of the search party offer himself for personal search?
74	Before leaving the premises, was a copy of the Panchnama and other documents given to the searched party?
75	Did any member of the search party leave the premises before the conclusion of the search?
76	Did all members of the search party return to the Control Room?
77	Was there any difficulty in handing over the seized assets, documents, books of account, computers etc. in the Control Room?
78	Has the preliminary report been given by the leader of the search party specifically mentioning highlights/special features of the search?

ANNEXURE - 57**INSTRUCTION : 177***Date of Issue: 04.06.1970*

Section(s) Referred: S.132(1)(c), S.132(3) of IT Act, 1961

The Board had stated in their letter F.NO.15/156/65-IT (Inv.), dated, 28-10-65 that a promissory note payable to order or to bearer is a negotiable instrument within the meaning of the Negotiable Instruments Act, 1881, and comes within the purview of 'other valuable article or thing' as contemplated by section 132(1)(c) attracting thereby by the provisions of section 132(5) regarding summary assessment. It has been suggested that promissory notes would really fall in the category of documents and cannot be classified as other valuable article or thing, and therefore, the question of passing an order u/s 132(5) retaining the promissory notes for being applied in the manner laid down in section 132A, does not arise. It is pointed out that retaining promissory notes is likely to involve the Department in litigation if the amount becomes irrecoverable.

2. A promissory note is both a document and a valuable thing and whether it falls in one category or the other has to be determined having regard to the words used in section 132 and the purpose of that section. The following six expressions have been repeatedly used in section 132:-

- i) Books of Account.
- ii) Other documents.
- iii) Money
- iv) Bullion
- v) Jewellery
- vi) Other valuable articles or things.

At some places in section 132 all the expressions have been used together, while at other places only the first two or the last four have been used together. At some other places in section 132 along with the first two expressions, the word 'assets' has been used in place of the last four. Reading the various sub-sections and clauses of section 132 in the context of an in conjunction with each other, it is clear that the last four expressions include in their ambit things which have an intrinsic value. The fact that the word 'assets' has been used along with the word documents clearly shows that the documents contemplated in the section are those which are not in the nature of assets. Promissory Notes being documents in the nature of assets would, therefore, fall in the category of other valuable articles or things. The Board's instructions contained in

its letter dated 28-10-65 mentioned above, therefore do not require any modification.

3. Promissory notes which have been seized in the course of a search and are likely to become time-barred may be returned on the assessee depositing an amount equal to the value of the promissory note, if the assessee can be persuaded to do so. In cases where the assessee refuses to deposit an equivalent amount, no useful purpose would be served by retaining the promissory notes. On the other hand, it would involve the Department in litigation if the amount due under the promissory note becomes irrecoverable because of the failure to return it to the assessee. In such cases, either a Photostat copy of the promissory note should be retained or a copy certified by the assessee to be a true copy.

4. In searches which may be undertaken in future, in addition to obtaining a Photostat or certified copy some further action is possible. Section 132(3) provides that where it is not practicable to seize any valuable article or thing, the authorised officer may direct the person in immediate possession or control of the article or thing, not to part with or otherwise deal with it without the previous permission of the authorised officer and the said officer may take such steps as may be necessary for ensuring compliance with the subsection. Therefore, in such cases an order u/s.132(3) should be passed directing the person in possession of the promissory notes to part with the said notes unless an equivalent amount is deposited with the ITO.

ANNEXURE - 58**INSTRUCTION : 226***Date of Issue: 06.10.1970*

Section(s) Referred: S. 132 of IT Act, 1961

In Boards circular of even number dated 4th June 1970 on the above subject the procedure regarding the seizure of the promissory notes was specified. It has been suggested to the board that an order merely restraining the lender from parting with promissory notes would be ineffective as the lender can realise the debt by issuing a receipt discharging the debtor from any further liability. This is a possibility, which has to be kept in mind in dealing with such cases.

2. If the assessee has other tangible assets and the recovery of the demand can be secured in other ways, it may not be worthwhile to contact individual borrowers and restrain them u/s 132(3). In cases where there is any risk of demand becoming irrecoverable, action u/s 132(3) should be taken. The best way to pass the order would be to qualify the order with the proviso that the lender may part with the promissory notes only on the condition that the borrower pays the money to the Income-tax department and not to the lender. Since section 132(3) empowers the authorised officer to take all necessary steps to ensure compliance of an order under this section, he can also issue an order to the borrower not to pay the amounts under the pronote to the lender but to the I.T. Department.

3. In suitable cases promissory notes themselves can be seized, order u/s.132(3) passed and the provision to second proviso to section 132(5) invoked to get a replacement in terms of money for the promissory notes before returning these to the assessee.

ANNEXURE - 59

INSTRUCTION : 530*Date of Issue: 22.03.1973*

Section(s) Referred: S. 132 of IT Act, 1961

Reference is invited to Para 7 of the Board's Circular letter F. No. 15/156/65-IT(Inv.) dated the 13th August, 1965 wherein it has been stated that it is not necessary to serve on the person whose premises are searched, a copy of warrant of authorisation. The matter has been reconsidered in consultation with the Ministry of Law and Board are advised as under:-

- (i) Under section 96, Cr. P.C., the Magistrate who issues a search warrant, issues it as a Court and it would be difficult to say that an order of a Court actually passed for whatever purpose, is not a public document. u/s.76 of the Evidence Act, every public officer having the custody of public document which any person has a right to inspect shall give the person on demand a copy of it on payment of legal fee thereof. In view thereof, it may be possible to say that a certified copy of a search warrant issued by a Magistrate could be obtained on payment of the legal fees by a party interested.
 - (ii) But the provisions of Cr. P.C. relating to searches and seizures are to apply, so far as may be to searches and seizures made under subsection 1 of Section 132 of the I.T. Act, 1961. Thus, the provisions of Cr. P.C. applicable are subject to the special provisions contained in the Section.
 - (iii) The provisions relating to the conduct of searches may be largely found in section 101 to 103 of the Code. Under section 102 of the Code, what is necessary is that the warrant may be produced to the person concerned in the cases mentioned in the said section. That Section does not require a copy of the search warrant in every case to be served on the person concerned.
2. In the circumstances normally the search warrant is only required to be produced to the person whose premises are searched and it is not necessary that a copy of the search warrant should be supplied to him. If, however, a writ petition is filed in the High Court challenging the validity of the search and the High Court directs that a copy of the search warrant should be furnished to the person whose premises are searched it should be complied with.

ANNEXURE - 60**INSTRUCTION : 806***Date of Issue: 30.11.1974*

Section(s) Referred: S. 132 of IT Act, 1961

Rule 112 of IT Rules

Attention is invited to paragraphs 21 and 22 of Board's Confidential Circular No.25-D(LXIII–4) OF 1965 issued under F.No.15/156/66-IT (Inv.) dated the 13th August, 1965 detailing the procedure to be adopted for safe custody of valuable assets seized in the course of a search.

2. Instances have come to the notice of the Board where action has not been taken immediately after the search for depositing the cash seized in the Personal Deposit account of the Commissioner as required under sub-rule 12 of Rule 112 of the Income Tax Rules, 1962. Board desire that cash seized in the course of the search should invariably be deposited in the Personal Deposit Account of the Commissioner immediately after the search except when it is to be retained for special reasons as discussed in para 3 below.

Similarly, other valuable assets seized in the course of search should also be deposited with any branch of the RBI or the SBI or of its subsidiaries or Government Treasury as required under sub-rule 12 of Rule 112 of the IT Rules, 1962 immediately after the seizure.

3. Sometimes it becomes necessary to retain the seized currency without depositing the same in the Personal Deposit Account of the Commissioner concerned to preserve the identity of currency notes from the point of prosecution. For example, in a case where currency notes were seized in the course of a search, the assessee claimed to have obtained the cash on a particular date, whereas the currency notes were found to bear the RBI stamp which indicated that the notes were actually issued on a date subsequent to the date claimed by the assessee. In a case of this type, the retention of currency notes is necessary as a piece of evidence for launching prosecution to prove the falsity of assessee's claim. In such cases, the Commissioner of Income tax may, after consultation with the Prosecution Counsel, retain the currency in original form and record his reasons for doing so. If in a case, retention of currency notes in its original form is found necessary the same may be placed in package and kept in safe custody of a bank/treasury as specified in the Rules.

ANNEXURE - 61

INSTRUCTION : 994*Date of Issue: 31.07.1976*

Section(s) Referred: S. 132, S.132B IT Act, 1961

The Antiquities and Art Treasures Act, 1972 (Act No. 52 of 1972) has come into force from the 5th of April 1976. It repeals the Antiquities (Export Control) Act, 1947.

2. The Antiquities and Art Treasures Act, 1972 regulates the export trade in antiquities and art treasures, provides for the prevention of smuggling of, and fraudulent dealings in antiquities and for compulsory acquisition of antiquities and art treasures, wherever considered for preservation in public places, and connected matters. Sub-clauses (a) and (b) of Clause (1) of Section 2 define "antiquity" and "art treasure" as follows:-

(a) "antiquity" includes-

- (I) (i) any coin, sculpture, painting, epigraph or other work of art or craftsmanship;
 - (ii) any article, object or thing detached from a building or cave;
 - (iii) any article, object or thing illustrative of science art, crafts, literature, religion, customs, morals or politics in bygone ages;
 - (iv) any article, object or thing of historical interest;
 - (v) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act;
- which has been in existence for not less than one hundred years; and
- (II) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years;

(b) "art treasure" means any human work of art, not being an antiquity, declared by the Central Government by notification in the Official Gazette to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value;

Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive.

Any person who owns, controls or is in possession of an antiquity falling in categories notified in the Gazette of India from time to time is required to register the same with a registering officer appointed under

the Act and obtain a certificate of registration (Section 14) and to intimate any subsequent transfer of its ownership, control or possession (Section 17). Further, any person desirous of trading in antiquities has also to obtain a licence from a licensing officer (Section 8). For this purpose, he has to make an application in the prescribed form and has to maintain prescribed record and photographs including, inter alia, a register showing particulars identifying the objects, their registration numbers and the purchase and sale transactions etc. if the Central Government is of opinion that it is desirable to preserve any antiquity or art treasure in a public place, the Government is empowered to order its compulsory acquisition on payment of compensation (Section 19 and 20).

3. In appropriate cases, the Government may consider acquiring an article seized during the course of a search and seizure operation conducted by the Income-tax Department, if it is found to be an “antiquity” or worthy of declaration as an “art treasure”. Therefore, if as a result of such operation, an article is placed under a prohibitory order/seized, which, prima facie, appears to be an antiquity or of such an artistic or aesthetic value as worthy of being declared an “art treasure” in terms of section 2 of the Antiquities and Art Treasures Act, 1972, it should be immediately brought to the notice of the Superintending Archaeologist of the area (list of Superintending Archaeologists annexed) and his advice sought whether the article is an antiquity or worthy of declaration as an art treasure. Thereafter, a report should be made (in duplicate) as early as possible to the Director of Inspection (Inv.) giving full particulars of the article, the advice received from the Superintending Archaeologist, along with its approximate market value as given by the latter and/or a Valuer. The article should not be released to the assessee or otherwise disposed of till the receipt of the Director of Inspection’s Instructions.

4. It may be carefully noted that in view of the provisions of the Antiquities and Art Treasures Act, the Income-tax Authorities cannot undertake any sale/auction of antiquities. When an antiquity or art treasure is compulsorily acquired by the Government, the compensation amount will be dealt with in accordance with the provisions of section 132/132B of the Income-tax Act. If the Director General, Archaeological Survey of India advises that the Government are not interested in acquiring an antiquity, it will have to be sold, where necessary, through a licensed dealer.

ANNEXURE - 62

INSTRUCTION : 1108*Date of Issue: 06.10.1977*

Section(s) Referred: S. 132(3) IT Act

Under section 132(3), the authorised officer can serve a prohibitory order on the owner or the person who is in immediate possession or control of any books of account, other documents, money, bullion, jewellery or other valuable article or thing when it is not practicable to seize such books of account, etc.

2. The question whether an order under section 132(3) can be served on a bank prohibiting it from removing, parting with or otherwise dealing with the money in an account standing in the name of an assessee, whose premises are searched, has been considered by the Kerala High Court in the case of M. Shahjahan and another (1976) 104, I.T.R. 347. The High Court has inter alia, observed that the moneys deposited in a bank belong to the bank, which has full liberty to use the money in such manner as it deems fit, subject to the obligation that if the customer demanded payment in the proper manner by issue of cheques, such cheques should be honoured. The court has further observed as follows:-

“Such moneys deposited in a bank, we consider, are impracticable to seize. In such cases, we conceive that action can be taken under subsection (3) of section 132. We are of the view that the proper way in which the order under the subsection should be worded is to address to customer who had deposited the money in the bank directing him not to remove, part with or otherwise deal with money except with the previous permission of the officer. This is permissible because we are of the view that the customer though he has no ownership or immediate possession of the money has certainly the right, at his will to withdraw the money from the bank and dispose of the same as he liked. Instead of issuing such an order, the order in question has been issued to the bank not to deal with the money. This may not be a correct procedure and the order, exhibit P-1, might imply that the bank had no authority to use the money after the order has been served on the bank.”

3. In order to steer clear of difficulties in future the Income-tax Officer should, wherever a notice under section 132(3) is warranted, serve the notice on the bank concerned, and endorse a copy of it to the assessee. He should simultaneously also serve a notice under section 132(3) on the assessee, endorsing a copy to the bank. Such a course will preclude avoidable controversies about “ownership”, “control” etc. of the assets which are sought to be covered by the prohibitory order. Wherever the facts of the case justify, the powers available under section 281B may also be resorted to, without prejudice to the action taken under section 132(3).

ANNEXURE - 63**INSTRUCTION : 1580***Date of Issue:* 17.10.1984

Section(s) Referred: S. 132 of IT Act, 1961

F.No. 286/26/84-IT(Inv. II)

Guidelines regarding maintenance of strong rooms for safe custody of valuable assets and books of accounts/documents are contained in Boards letter F.No.I-11020/34/76-Ad. IX dated 19th June 1978. However at certain places facility of strong room may not be available. This has necessitated the issue of these guidelines prescribing alternative arrangements.

2. In places where the strong room facility is not available, Bank lockers should be operated by 2 senior officers jointly. At Commissioner's Headquarters one officer may be chosen from Intelligence Unit and the other from the Commissioners office. In other places, two officers may operate the locker jointly. Where the Assessing officer happens to be the IAC Assessment, he along with some other Senior ITO may operate the locker. Registers I and II prescribed under the above mentioned Board's guidelines dated 19th June, 1978 should also be maintained with suitable modifications in respect of operation of the locker.

3. Where Bank lockers are not available at all or the Bank lockers available may not be big enough in size sealed packages containing valuables prepared in accordance with the Rule 112(10) of Income Tax rules should be put in a bag of strong material which should again be sealed and an identification tag should be securely fixed to the bag so as to identify the packages within it fully. This bag may be deposited with any branch of RBI, SBI or its subsidiary, any Nationalised Bank or a Government Treasury in the joint names of two senior officers not below the rank of ITO. Again as mentioned in para 2 above at Commissioner's Headquarters one such officer should be taken from Intelligence and the other from the Commissioners office. At places other than Commissioners Headquarters the bag contains sealed packages may be deposited in the joint names of two officers. Where the IAC assessment happens to be the assessing officer, he along with a senior ITO may deposit the bag in their joint names. Register II prescribed in the above mentioned Boards letter dated 19th June, 1978 in respect of strong room should be maintained to record the deposit and removal of the bag containing sealed packages in/out of the Bank.

4. In respect of locker as well as the bag containing sealed packages, it should be made clear to the Banks that locker has been hired and/or bag containing sealed packages have been deposited by others from time to

time depending upon the exigencies of the situation like transfer/retirement etc. of the officers.

5. Whenever any officer who is operating the locker or in whose name the bag containing sealed packages has been deposited leaves the station on transfer/retirement, a complete handing and taking over memo of the sealed packages of valuables kept in the locker/bag should be drawn up under the signatures of the transferred and the relieving officer. Copy of this memo should be endorsed to the Commissioner.
6. The instructions contained in para 5 of Board's letter F.No.I-11020/34/76-Ad-IX dated the 19th June, 1978 will apply *mutatis mutandis* in respect of each locker hired by the Department.

ANNEXURE - 64**INSTRUCTION : 1576***Date of Issue: 09.11.1984*

Section(s) Referred: S. 132 of IT Act, 1961

Board have received complaints that in a number of cases the number of the keys seized in course of searches is not noted in the seizure memo giving room for substitution at a later stage. Though there may be no truth in this complaint, searches and seizures are sensitive matters and no room should be given for any suspicion whatsoever. It is therefore, necessary that whenever any key is seized in course of a search its number should also be recorded to facilitate identification at a later stages. In case it is not admitted that the key pertains to a bank locker, number alone may be mentioned without reference to any bank locker.

2. Though there has been an improvement in the operation of lockers sealed in course of searches, it is seen that in some cases the lockers remained sealed for more than 7 days for no valid reasons. Board would, therefore, like to reiterate the instruction issued vide Instruction No. 1497 dated 13-1-1983 that the lockers sealed must be operated within a period of 7 days. The information about the lockers which remained sealed for more than a week should be sent to Director General (Inv.) as per earlier instruction.
3. These instructions may be brought to the notice of all concerned.

ANNEXURE - 65

INSTRUCTION : 1621*Date of Issue: 04.06.1985*

While inaugurating the conference of Commissioners of Income tax in April 1985 the Finance Minister stressed the need for stepping up the tempo of searches and for expeditious disposal of search and seizure cases. The Finance Minister also expressed the view that searches should be conducted on a selective basis.

2. You will kindly appreciate that the recent liberalisation in the limit for summary assessments vide Board's Instruction No.1617 dated the 18th May, 1985(F.No.201/109/85-ITAI) is only one limb of the policy to ensure better voluntary compliance from tax payers. The other essential limb of the same policy is intensive scrutiny and relentless investigation in the remaining cases so as to leave no doubt in the minds of tax payers that the Department means business and that they cannot get away with anything they declare in their returns. The increased tempo of searches and seizures is thus an essential step in the implementation of the total policy package which reposes increasing faith in the tax payer and seeks to ensure at the same time that this faith is not abused.

3. It has been observed that inspite of instructions issued from time to time, the reports regarding searches are either not received on time or are incomplete. This causes avoidable embarrassment. Similarly the deterrent effect of searches is lost due to delay in completion of assessments in search cases. Early assessment in search cases will go a long way in improving the collection of taxes as well as enhancing the image of the Department as a technically competent limb of the Government

4. The decisions taken in the Mini Conference of Chief Commissioners and some selected Commissioners of Income-tax on 24-11-84 were communicated by the Board vide their letter F.No.286/158/84-IT (Inv. II) dated 4th December, 1984. Some of the matters discussed in detail in the Commissioners conference 1985 and the recommendations made in this conference were examined by the Board. The following decisions taken in this regard are communicated for the guidance of all concerned.

5. (a) A roster of officers to be deployed for search and seizure operations should be maintained in each Commissioners charge and the deployment of such officers as authorised officers should be by rotation.
- (b) The preliminary report about a search should be sent to the Board within 24 hours of the search through telex/telegram containing the following information:-
 - (i) Names and addresses of the persons searched.

- (ii) Natures of business/profession of the persons searched
- (iii) Number of premises covered.
- (iv) Number of search warrants executed.
- (v) Manpower utilised.
- (vi) Value of asset seized giving separate figures for cash, bullion, jewellery and other assets.

Copy of the Telex/Telegram shall also be endorsed to D.I.T. in case the search was authorised by C.I.T.

- (c) Within 3 days of the completion of search, a detailed report should be sent high-lighting the points which came to the notice of the department during the search operations to enable the board to appraise the Minister of State (Finance) and the Finance Minister in the matter. This report will also indicate the name and designation of the assessing officer IAC/CIT who will be handling the search case. A copy of the report shall also be endorsed to the concerned D.I.T. in case the search was authorised by C.I.T.
- (d) The officers of the Investigation Wing need not scrutinise the seized documents as was being done hitherto but should only make inquiry in hot pursuit cases emerging from the actual search and seizure operation, as for example verification of explanation given for sources of investment in the statements recorded by authorised officers and location of locker keys needing search of lockers etc. The appraisal report should contain the information on the basis of which search was authorised and should highlight the matters which have come to the notice of the Authorised officers in the course of the search and also contain the material at (b) and (c) above.
- (e) The scrutiny of seized material and other investigations must be completed by the assessing officer early and he should ensure that after the assessee has been confronted with the evidence which is going to be used against him, the concealed income is quantified within 120 days of the search. This will also enable the Department to cover all the items of undisclosed income in the order u/s 132(5) and the Department will be enabled to safeguard its interests by retaining possession of sufficient assets seized in cases where large demands are likely to be created on the basis of scrutiny of seized documents.
- (f) References to a search case in these instructions apply to all the searches conducted in relation to one assessee or group of assessee on the basis of common information. It may be that several premises are covered in such a case, but it will be counted only as one case for purposes of deployment of manpower though for

statistical purposes each warrant is treated as a separate search. How many such cases an officer can be expected to dispose of in a year will depend on the nature and extent of the material seized, the competence skill and experience of the officer assigned to process the case and so on.

- (g) It has also been decided that all search and seizure cases brought forward as on 1-4-85 should be disposed of by 31-12-85 and current search and a seizure cases should be completed within 6 months of the search excepting when there is a legal impediment. It is also clarified that the mere filing of an application before the settlement commission does not operate as a bar to assessment proceedings and therefore, examination of seized material and necessary investigation should be continued and qualification of concealed income proceeded with. While sending the quarterly report to the board the C.I.T.'s should separately indicate the pendency of such search and seizure cases, where petitions have already been actually admitted by the settlement commission.
 - (h) Each C.I.T. will nominate the officers who will be assigned search cases of his charge. To ensure that the assessments in search and seizure cases are completed within the period stated in (f) above, the C.I.T. should deploy sufficient number of officers to handle their search and seizure cases. Allotment of cases to the nominated officers will be done by the DI/CIT authorising the search. It has also been decided that an officer dealing with search and connected cases will not ordinarily be assigned any other cases except with the approval of Member (Investigation). Those officers will be associated with the search case from the very beginning and would take the assistance of Investigation Wing wherever considered necessary.
 - (i) Copies of orders u/s.132 (5), 132(12) assessment orders and appellate orders should be forwarded to the concerned Director of Inspection (Inv.) and the Board should also be kept informed of the developments in all sensitive cases. Any special information coming to the notice of Investigation wing/Assessing officer in course of proceedings should also be communicated to the Director of Inspection (Investigation) as well as to the Board, if it is felt that the same will be useful in other cases of the same trade or industry e.g. a new modus operandi of tax evasion in a particular line of trade/industry.
 - (j) Commissioner of Income Tax will also take steps to ensure that appeals in search and seizure cases are finalised at the earliest.
6. These instructions may be brought to the notice of all the officers working in your charge.

ANNEXURE - 66

Date of Issue: 06.11.1985

***Subject: Grant of reward to Officers and Staff of Income tax
department - Policy, procedures and orders -regarding
F. No. 414/10/83 -IT (Inv.)***

MADAN M.JOSHI
DIRECTOR
(INVESTIGATION)

D.O.F.No.414/10/83-IT(INV.)

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, the 6th November, 1985

Dear Shri

While inaugurating the Conference of Commissioners of Income-tax, 1985, Finance Ministry had desired that Income Tax Department should come up for rewarding its members for good work done by them. Government has, therefore, approved a new scheme (copy enclosed) for grant of reward to officers and staff.

- (i) for disposal under Summary assessment scheme.
- (ii) for scrutiny wards.
- (iii) for search and seizure work.
- (iv) for representation before I.T.A.T.

It shall be in operation w.e.f. 1.4.1985.

The purpose of the present scheme is to give incentive for unearthing tax evasion, detecting tax avoidance as well as improving the quality of assessment work. For encouraging officers and staff working in different areas in the field and motivating them for improving their performances, you are requested to give it a wide publicity.

Yours sincerely,

Sd/-

(Madan M.Joshi)

Encl: As above.

All Chief Commissioners of Income tax/
Commissioners of Income tax.

**Subject: Grant of reward to Officers and Staff of Income tax
department - Policy, procedures and orders -regarding**

The Government have reviewed the existing scheme of reward to

Officers regarding best assessment order and have decided to frame a new scheme for grant of reward to officers and staff of the Income-tax Department. The following Scheme shall be in operation w.e.f. 1st April, 1985:

2(a) Reward for disposal under Summary Assessment Scheme:

The Board have laid down that each Income Tax Officer (and his staff including one Inspector) who is dealing with summary assessments give a disposal of 5000 assessments each year. With a view to encourage maximization of disposal of summary assessments it has been decided to sanction rewards to three best summary assessment units in each Commissioner of Income Tax's Charge whose disposal is the highest for a financial year. The sanction of reward would be subject to a certificate from the concerned Inspecting Assistant Commissioner that:

- i) all the refunds due have been issued within one month;
- ii) the intimations regarding assessments have been dispatched in all the cases within one month;
- iii) the disposal is in excess of the quota fixed by the Board.

The reward will be given to each of the Officers and staff working in the concerned unit at the rate of one month's emoluments for the highest disposal, @ 2/3rd of a month's emolument for the second highest disposal and @ 1/3rd of a months emoluments for the third highest disposal.

The summary assessment unit having maximum disposal in the country shall also be eligible for additional reward of Rs. 20,000/-

(b) Reward for Scrutiny Wards:

The scrutiny cases are being handled by the Income Tax Officers as well as by Inspecting Assistant Commissioners of Income tax (Assessments). The eligibility conditions for rewards in scrutiny assessments will be as under:

- (i) Where additions to the income returned or deemed to have been returned of Rs.50,000 or above are up held in appeal by Commissioner of Income-tax (Appeals) in cases assessed by Income Tax Officers.
 - (ii) Where additions to the Income returned or deemed to have been returned of Rs.1,00,000 or above are upheld in appeal by Commissioner of Income-tax (Appeals) in cases assessed by Inspecting Assistant Commissioner of Income-tax (Assessments)
- Provided that in both cases no reward shall be payable where

50% or above of the additions made by the assessing officer have been deleted by the Commissioner of Income tax (Appeals).

- (iii) All assessments made on or after 1-4-1985 will qualify for reward.
- (iv) Prosecution for concealment has been launched in the case (except where assessee has voluntarily disclosed the income)
- (v) No reward shall be payable where an ex-parte assessment has been made, except in search and seizure cases.
- (vi) Sample scrutiny cases fulfilling the above conditions will also qualify for reward.

(c) Reward for search and seizure work:

The heads of the Department may having regard to the value of the seizure effected and magnitude of evasion detected and special efforts or ingenuity displayed by the officer concerned sanction the grant of suitable reward to the officers/staff of the Investigation Wing and the members of the search party in cases where seizure involving assets of at least Rs. 10 lakhs (Rs. 25 lakhs in the metropolitan towns) have been effected.

Where valuables have been seized the officials entitled for reward would be

- (a) All members of the particular search party who have detected and seized the valuables.
- (b) The Dy. Director of Inspection/ Assistant Director of Inspection and the Inspectors concerned.

The ratio of disbursement of the reward in such cases shall be at the ratio of 40% of the final amount sanctioned to (a) above and balance 60% to (b) above.

(d) Reward for best Officers at Tribunal:

A Committee consisting of Member (Judicial), Central Board of Direct Taxes and Director of Inspection (Income-tax) may grant rewards @ one month's remuneration, 2/3rd of a months remuneration, and 1/3rd of a months remuneration to each member of the 3 best units of the authorized representative and their staff working in the I.T.A.T.

No such reward shall however be payable if the success ratio of the unit falls below 50% of the total cases represented during the year.

3. Quantum of reward:

- (a) As mentioned in para 2(a), the three Summary Assessment Units having the highest disposal in a financial year in each Commissioner's Charge shall be eligible for a reward, and a further reward of

Rs.20,000/- will be sanctioned to the Summary Assessment Unit having maximum disposal in the country. The emoluments shall mean total pay plus allowances drawn in the month of March of the relevant financial year.

- (b) As regards reward mentioned in para 2(b) and 2(c) informers and Government servants (officers and staff) will be eligible for a maximum reward up to 10% of additional income brought to tax. Where a reward has been sanctioned for additions made in the assessment of a firm, no rewards shall be payable for making consequential additions in the assessments of the partners. Where there are no informers, the entire amount of reward will be payable to the officers and staff and where the reward is also payable to informers; the reward payable to officers and staff would be limited to 5% of additional income brought to tax. Where as a result of a search, the assessee himself discloses what was hitherto undisclosed income, excess of income returned over the income as per the books maintained, if any, shall be treated as additional income brought to tax. Where no books of account are maintained or though books are maintained, but the income has not been arrived at, the excess of income returned over mean of last three years' returned income shall be treated as additional income brought to tax for purposes of computing the reward.

4. Stage of payment of reward:

- (a) In respect of cases covered under para 2(a) and 2(d), the reward shall be paid by 30th June in regard to work done in the preceding financial year.
- (b) In respect of cases covered under para 2(b) and (c) above:-
 - (i) Where the cases are decided on agreed basis the whole amount of reward will be payable on completion of assessments and after expiry of the period for filing appeals, if an appeal has been filed.
 - (ii) In cases where appeals are filed before Commissioner of Income tax (Appeals), 50% of the reward admissible shall be paid to the eligible officers/staff after the order of Commissioner of Income-tax (Appeals) has been received.
 - (iii) In all other cases final reward will be payable after the order of Income-tax Appellate Tribunal has been received. This reward will be computed in the aforesaid ceiling less the amount already paid on receipt of CIT (Appeal)'s order or otherwise.

5. Persons entitled to reward:

The eligibility for reward will be as under:

- (i) In case of reward for highest disposal under Summary assessment Scheme, reward shall be given to the Income Tax Officer, Inspector attached to his and the members of staff working in the said unit. However, no one who has worked for less than 6 months in a particular Summary Assessment Unit in a year shall be eligible for the reward.
- (ii) Where reward is sanctioned for scrutiny assessments the reward shall be shared by the assessing officer and his staff. In search and seizure cases and survey cases the reward shall be shared between the officer and staff of the Investigation Wing, authorized officer and assessing officer and his staff.
- (iii) Ordinarily officers engaged in the investigation and assessment work alone will be eligible for reward. However, in appropriate cases the Government may consider in consultation with Director of Inspection (Investigation) the grant of lump sum payment, advance increment, recognition in any other manner of the services rendered by other officers, and staff for which the heads of the Department should forward their recommendations to the Directors of Inspection (Investigation) of their zone with a copy to Member (Investigation).
- (iv) All the officers and staff of the selected Authorised Representative Units shall be entitled to get the reward. However, no one who has worked for less than 6 months in a particular unit in a year shall be eligible for the reward.

6. Delegation of powers for payment of reward:

All cases of grant of reward to Government Servants, except in para 2(d) above, would be examined and approved by a competent Committee consisting of the following:

Amount of reward	Constitution of the committee
(a) Reward up to Rs. 20,000	(i) Commissioner of Income-tax concerned; and (ii) D.I. (Investigation) only where search was authorised by him.
(b) Reward in excess of Rs.20,000 but not exceeding Rs.1 lakh per assessment	(i) Member (Investigation) (ii) D.G. (Investigation) (iii) D.I. (Investigation) of the zone concerned
(c) Reward in excess of Rs. 1 lakh per assessment	(i) Chairman (ii) Member (Investigation) (iii) Member (Income-tax)

7. The reward shall be payable up to the level of Assistant Commissioner of Income-tax depending on the contribution made by them as a team as well as individually with regard to collection of intelligence, surveillance, effecting seizures and framing of assessments etc. Due credit will be given to the staff employed in investigation and/on prosecution work resulting in conviction of persons involved. Rewards shall be exempt from payment of Income tax. The Competent Committee will decide the manner in which the reward due will be shared between the eligible officers and staff. Reward will be purely an ex-gratia payment and the Competent Committee's discretion shall be final.

ANNEXURE - 67**INSTRUCTION : 1745***Date of Issue: 22.01.1987****Subject : Unauthorised keeping of money seized by the Commissioner/
Tax recovery Officers during raids - Regarding***

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

**Subject: Unauthorized keeping of money seized by the Commissioner/
Tax recovery Officers during raids - Regarding -**

Attention is invited to Board's letter No. 380/5/84-IT(B) dated 31-13-1985 wherein it was stressed that Personal Deposit Account should be opened only with the approval of the Board. It has been reported by the CCA (CBDT) that some of the Commissioner/Tax Recovery Officers are opening unauthorised current account in Nationalised Banks for depositing and drawing of money seized during search/raid etc. In one case the account is being operated since 1977 onwards. According to para 6.7(a) of the Revenue Account Manual, money seized during the raids etc. should be kept in the focal point bank by the Commissioner of Income-tax (Headquarters) with the sanction of the Government. It is found that these accounts were opened without the prior sanction of the CBDT/CCA with result that the entire transactions have remained outside the Government Account. This is a very serious lapse. It is, therefore, requested that cases of this type should be avoided in future. In all cases where the money is seized as a result of search, the same should be deposited in Personal Deposit Account. In case there is no Personal Deposit Account a formal request should be made to the Board for opening such account. The necessary Personal Deposit Account should be opened only on receipt of the sanction of the Board. It is hoped that the lapses of this nature mentioned above will be avoided in future, as otherwise this is likely to result in adverse criticism by the Comptroller & Auditor General of India and the Public Accounts Committee. Please acknowledge receipt of this letter and also intimate the full details of Personal Deposit Account being operated in your charge (refer to Board's sanction letter).

ANNEXURE - 68

INSTRUCTION : 1855*Date of Issue: 05.09.1990****Subject: Receipt Audit of reward files***

The Board has received a reference seeking instructions as to whether files regarding cases where payments of rewards were made to informants, should be made available to Receipt Audit parties for the purpose of audit. It has been pointed out that if the reward files are subjected to audit, the informants may be dissuaded from furnishing information regarding tax evasion, as their security would be endangered.

2. The Board has been informed that in addition to the information file, which contains the name and address of the informants and the details of the information furnished by him, a reward file is opened for each case. This reward file contains a gist of the information provided by the informants and also a note regarding the further assistance rendered by him. This file also contains the evaluation of information with reference to the amount added in the assessments and the taxes realised, for which purpose a report is obtained from the Assessing Officer, and the order of the Competent Authority on payment of rewards. This file does not contain the name and address of the informants.
3. The Board has, therefore, decided that the purpose of the Receipt Audit would be served if only the reward files are made available to the Receipt Audit. In addition, statistical data maintained vide Reward Register prescribed at para 8.02 (iii) of Chapter VIII of the Search Audit.
4. This may be brought to the notice of all officers in your region.

ANNEXURE - 69

Date of Issue: 30.11.1993

Subject: Guidance for Grant Of Rewards To Informants, 1993

F. No. 292/14/93-IT (Inv. III)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

Guidelines for Grant of Rewards to Informants, 1993

In suppression of the existing guidelines on the subject, the following guidelines are hereby laid down for regulating the grant of rewards to informants in income-tax, wealth-tax, gift-tax and estate duty cases.

1.1.	Short-title	These guidelines may be called the Guidelines for grant of Rewards to Informants, 1993.
1.2.	Commencement and application	Subject to the provisions of Paragraph 2.4 these guidelines will regulate the grant and payment of reward to informants in cases where information is received on or after the 1st December, 1993.
2.1.	Authorities Competent to grant rewards	<p>The authority competent to grant rewards will be the Commissioner of Income tax/Director of Income-Tax(Inv.)/Director of Income-tax (Recovery) depending on the authority to whom the information on the basis of which appropriate action has been taken, was furnished. Provided that where the amount of reward including reward if any already granted, in any given case exceeds Rs. 1,00,000 but does not exceed Rs. 5,00,000 (Rs. Five lacs only), no reward shall be granted by the Director of Income-tax or as the case may be the CIT, except with the previous approval of a committee consisting of;</p> <ol style="list-style-type: none"> (1) Director General of Income-tax (Inv.) of the zone concerned, (2) Chief commissioner of the region concerned, and (3) Commissioner of Income-tax concerned or Director of Investigation concerned as nominated by DGIT(Inv.) Provided further that the approval of the full Board will be required if the total reward, including reward if any already granted, in any given case exceeds Rs. 5,00,000 (Rs. Five lacs only)
	N.B. For the purpose of this sub para, reward includes interim reward, part of final reward, reward on ad hoc basis, and reward in cases where the information leads to recovery of irrecoverable taxes.	

2.2.	Proceedings before the Committee referred to in the first proviso to para 2.1	In a case where the approval of the Committee referred to in the first proviso to para 2.1 is required, the matter shall be referred by the concerned Director of Income-tax, or as the case may be, the concerned Commissioner of Income-tax to the DG (Inv.) of the zone concerned, who shall convene the Committee and convey its decision to the authority which had made the reference.
2.3.	Proceedings before the Board referred to in the second proviso to para 2.1	In a case where the sanction of the Board referred to in the second proviso to para 2.1 is required, the matter shall be referred by the concerned DGIT (Inv.) to Member (Inv.), CBDT.
2.4.	Applicability of certain procedures to the case covered by the earlier guidelines for reward	With effect from the 1st December, 1993 the procedure mentioned in paragraphs 2.1, 2.2 and 2.3 shall <i>mutatis mutandis</i> apply to pending cases of reward where information was furnished prior to the 1st December, 1993
3	Informant for the purpose of the guidelines (see also Para 4)	A person will be considered to be an informant eligible for reward in accordance with these guidelines if he furnishes specific information, of undisclosed income, wealth, gift, estate. Provided that the claim of reward shall be confined to cases where action is actually taken in pursuance of the information. It will not be extended to cases where voluntary returns admitting additional income/wealth/gift/estate is filed subsequent to the receipt of the information but before any action on the basis of information has been taken.
4	Reward in cases where the information leads to recovery of irrecoverable taxes etc.	The informant will also be eligible for reward if the information furnished by him leads to the recovery of taxes/penalties/interest which have already been levied and which might not be recovered but for the information supplied.
5	Prohibition of rewarding Government Servants in Certain cases	No reward shall be granted under these guidelines to a Government servant who furnishes information or evidence obtained by him in the course of his normal duties as a Government Servant.
	Explanation:- For the purposes of para 5, a person employed as an employee by the Central or any State or any Union Territory Government or a nationalised bank or any local authority or any public sector undertaking, corporation, body corporate or establishment, set up or owned by the Central Government or any State Government or any Union Territory Administration shall be deemed to be a Government servant.	
6	Nature of reward and prohibition for	Reward in accordance with these guidelines will be ex-gratia payment which subject to these guide-

	entertainment of representations	lines will be granted in the absolute discretion of the authority competent to grant rewards. No representation or petition against any decision regarding grant of rewards will be entertained from either the informant or any person on his behalf.
7	Assignment of reward not to be recognised	As the reward under these guidelines is in the nature of an ex-gratia payment, no assignment there of made by the informant will be recognised. The authority competent to grant rewards may however, grant reward to heirs or nominees of an informant of an amount not exceeding the amount that would have been payable to the informant had he not died.
8	Statement of informant	Where any information or evidence is furnished by any person, in the expectation of a reward he will be required to furnish a written statement in the form annexed to these guidelines. Such a statement should be signed by informant in the presence of an officer not below the rank of an Income-tax Officer. Where any information is received by post, intimating that the information is given with a view to claim reward, the informant should be asked to appear before an income-tax authority not below the rank of an income-tax officer, and sign the written statement in the presence of such authority. The original statement in all cases should be kept in the custody of the DG (Inv.)/DI(Inv.)/CIT. Provided that no reward shall be admissible if the informant refuses to give the written statement as referred to above.
9	Written undertaking of the informant	At the time an informant furnishes, in the expectation of a reward, any information or documents, an undertaking should be taken from him to the effect:- (a) that he is aware that the information or documents furnished by him do not <i>ipso facto</i> confer on him right to any reward and that he would be bound by the decision of the competent authority in this regard. (b) that he is aware that the extent of reward depends on the precision of the information and usefulness of the documents furnished by him. (c) that the reward would pertain only to as much as the extra taxes levied/realised as are directly attributable to the information supplied by him.

		<p>(d) that the provisions of section 182 of the Indian Penal Code have been read by him or explained to him and he is aware that if the information furnished by him is found to be false, he would be liable to prosecution.</p> <p>(e) that he accepts that the Government is under no obligation to enter into any correspondence regarding the details of additions made and taxes realised as a result of his information and; (f) that he accepts that payment of reward is ex-gratia in the absolute discretion of the authority competent to grant rewards and he has no right to dispute the correctness of the decision in any court of law.</p>
10	Secrecy of the identity of the informant	The identity of the informants shall be kept secret by invariably giving them a code number. No information relating to informants or the rewards paid to them shall be disclosed to any authority, except in accordance with any law for the time being in force.
11	Circumstances to be kept in mind in determining the amount of reward	<p>In determining the reward which may be granted, the authority competent to grant the reward will keep in mind the following circumstances:</p> <p>(a) The accuracy of the information given by the informant;</p> <p>(b) The extent and nature of the help rendered by the informant;</p> <p>(c) The risk and trouble undertaken and the expense and odium incurred by the informant in securing and furnishing the information and documents;</p> <p>(d) The quantum of work involved in utilising the information furnished and in making the assessment;</p> <p>(e) The quantum of extra taxes levied and actually realised or realisable which are directly attributable to the information and documents supplied by the informant. It is clarified that the quantum of extra taxes realisable will be determined only after all the assessments have become final and no appeal etc. is pending or filed or the time for filing of appeal has expired.</p> <p>(f) In cases where the information led to recovery of otherwise irrecoverable taxes, the facility with which such taxes could be recovered as a result of the information.</p>

11.2	Certificate from the Internal Audit Party	When the amount of reward, including reward if any already granted is Rs.1 lac or more, the CIT/ DIT shall, before the grant of reward, get the case checked by the Internal Audit Party and obtain a certificate regarding the correctness of the extra tax levied/recovered.
	N.B. For the purpose of this sub-para, reward includes final reward, part of final reward and reward in cases where the information leads to recovery of irrecoverable taxes but does not include interim or ad-hoc reward.	
12	Prohibition of granting reward in cases of vague information etc.	No reward should be granted if the information furnished is of a vague and general nature. Reward should not be granted in respect of any incidental benefits, which may arise to revenue in other cases as a result of the information furnished by the informant.
13.1	Amount of reward	The Authority Competent to grant reward may grant reward not exceeding 10% (Ten percent) of the extra income-tax, wealth-tax, gift-tax and estate duty levied and actually realised, but subject to a ceiling of Rs. 5,00,000/- (Rupees Five lacs only) if the aforesaid taxes are directly attributable to the information, including documents, supplied by the informant. Provided that the aforesaid monetary limit of Rs. 5,00,000/- subject to however the ceiling limit of 10% of the extra income-tax, wealth-tax, gift-tax, estate duty levied and actually realised, can be waived in suitable cases after obtaining the approval of the full Board.
	N.B. In cases where tax is being paid by the assessee in instalments after the assessments becoming final, the authority competent to grant reward may consider disbursement of reward in instalments. Explanation: The monetary ceiling of Rs.5,00,000/- (Rupees five lakhs only) referred to in para 13.1 shall apply with reference to a group of cases and not in respect of the individual assessee of the group.	
13.2	Part of Final reward	The authority competent to grant reward may grant a part of final reward in cases where only some of the assessments relating to a case have become final after decision in appeals etc. or where some of the issues in an assessment have become final after decision in appeal etc. and the authority competent to grant reward is satisfied that extra taxes attributable to such assessments or such issues, which have been levied and realised, will not be reduced under any proceeding at any time in future.
13.3	Amount of part of final reward	The amount of part of final reward in a case will be determined in relation to the relevant

		assessment years in the manner prescribed in Para 13.1. Reward, if any, already granted shall be deducted from the amount of part of final reward determined under paragraph 13.2. A part of final reward granted as above shall be deducted from the final reward that may be granted to the informant.
14	Reward on ad-hoc basis in certain cases	<p>The reward should ordinarily be determined in accordance with the provisions of paragraph-13, but the authority competent to grant rewards may determine the reward on ad-hoc basis in the following types of cases, subject to the condition that the reward should not exceed the limits mentioned in para 13:-</p> <p>(a) Cases where information or documents have been furnished in respect of 'Havalawalas' and the gain to revenue in the case of 'Havalawalas' is negligible but substantial in the cases of beneficiaries of the 'Havalas' and it is not possible without inordinate delay to assess the extra taxes realisable in the cases of the said beneficiaries;</p> <p>(b) Cases involving carry forward of large losses or unabsorbed depreciation if the information or documents furnished only help in reducing the said losses and/or unabsorbed depreciation and it is not possible to determine immediately the extra tax that could have been realised;</p> <p>(c) Cases where information has been furnished by more than one informant and it is difficult to quantify the extra taxes that could have been realised as a result of the information furnished by each of them;</p> <p>(d) Other cases where the authority competent to grant reward considers it necessary or expedient to pay reward on ad-hoc basis. Such cases will however be referred by the authority competent to grant rewards to the Central Board of Direct Taxes for final determination of the basis and quantum of reward.</p>
15.1	Interim reward	The authority competent to grant rewards may grant an interim reward not exceeding 5% (five per cent) of the extra tax levied or which can reasonably be expected to be levied but subject to a ceiling of Rs. 1,00,000/- to an informant in a case where he is satisfied that:

		<p>(a) the information, evidence or documents given by the informant are likely to lead to substantial gain to Revenue;</p> <p>(b) the assessment made, or to be made on the basis of such information/evidence or documents is likely to be sustained in appeal; and</p> <p>(c) the taxes assessed, or to be assessed on the basis of the information or evidence or documents furnished by the informant are likely to be recovered.</p>
15.2	Applicability of the monetary ceiling for interim rewards- Concept of a case	The monetary ceiling of Rs.1,00,000/- (Rs. One lac only) referred to in para 15.1 shall apply with reference to a group of cases and not in respect of the individual assessee of the group.
15.3	Monetary limit for Interim reward not to apply in certain cases	Monetary limit of Rs. 1,00,000/- referred in para 15.1 can be waived in suitable cases after obtaining the approval of the full Board.
15.4		Reward if any already granted shall be deducted from the amount of interim reward, determined under para 15.1 and 15.3.
15.5		An interim reward granted under para 15.1 will be deducted from the final reward, or part of the final reward, that may be granted to the informant.
16.1	Reward in cases where information furnished by an informant to another Govt. Department is passed on by that Dept. to the IT Dept.	The authority competent to grant reward may grant a final reward under para 13.1 or a part of final reward under para 13.2 or a reward on ad-hoc basis under paragraph 14 or an interim reward under para 15.1 or 15.3 to an informant in a case where the information furnished by such an informant to a Government Department other than the Income-tax Department was received by the Income-tax Department from the Government Department.
16.2		In a case referred to in paragraph 16.1 above, reward as is admissible under these guidelines may be granted after deducting the reward, if any, the informant might have received or is likely to receive from the other Government Department to whom he had furnished the said information.
16.3		The authority competent to grant reward shall disburse the amount of reward granted in accordance with the paragraphs 16.1 & 16.2 through the Head of the Department who passed on the information to the Income-tax Department.

17	Maintenance of record of each informant and not taking cognisance of information furnished by certain informant	The Authority competent to obtain information, evidence or documents from informant will maintain record of each informant, giving in brief his antecedents, the details of cases in which he has furnished information and the extent to which information has been found reliable. In case it is found that the antecedents of the informant, the nature of the information furnished by him in the past and his conduct justify ignoring the information, evidence and documents furnished by him, the case should be referred by such authority to the CBDT, and if approved by the Board, it would be open to such authority not to take cognizance of the information furnished by such an informant.
18	Drawing of the Bill	The orders of the authority competent to grant reward in cases where it is the authority competent to grant reward and in cases to which the first and second provisos to para 2.1 are applicable, sanction of the Committee/full Board referred to therein, will constitute sufficient authority for drawing the bill on the treasury against the sanctioned allocation.
19	Control and audit of expenditure relating to rewards	The control and audit of the expenditure related to reward will be governed by the instructions specifically issued for the purpose from time to time.
		Sd/- Nishi Singh Officer On Special Duty (IT-INV.III)

ANNEXURE

Form of Statement for Furnishing Information Regarding
INCOME/GIFT/WEALTH/ESTATE NOT DISCLOSED TO THE
INCOME TAX/WEALTH TAX/GIFT/ESTATE DUTY DEPARTMENT

1	Full Name of the informant (in block capital letters)	
2	Full address of the informant	
3	Name of person/persons in respect of whom the information is furnished	
4	Address of person/persons in respect of whom the information is furnished	
5	Full particulars of:- (a) nature, source and extent of undisclosed income/wealth/gift/Estate	

	(b) nature, location and estimated value of undisclosed assets; (c) method of concealment; (d) period to which the concealment relates	
6	1Particulars of documents furnished, if any (a) in original (b) copy only	
7	Source of information:- (a) Whether the information has been acquired personally in the Capacity of an employee, relation or partner etc., of the person Mention at (3) above (b) Whether information has been acquired through some other Person, if so, his connection with the person at (3) above * The Information furnished should be reliable, definite and precise, and full to the extent known to the informant, if the space available here is not found sufficient additional sheet may be attached.	
8	Declaration:- I declare that (a) I am aware that the information or document furnished by me do not <i>ipso facto</i> confer on me a right to any reward, and that I would be sound by any decision and authority competent to grant rewards may take. (b) I am aware that the extent of the reward depends on the precision of the information and usefulness of the documents furnished by me. (c) I am aware that the reward would pertain only to as much of the extra taxes levied/realised as are directly attributable to the information supplied by me. (d) The provisions of section 182 of the Indian Penal Code have been read by me or explained to me and I am aware that if the information furnished by me is found to be false, I would be liable to prosecution. (e) I accept that the Government is under no obligation to enter into any correspondence regarding the details of additions made and taxes realised as a result of my information. 1(f) I accept that payment of reward is ex-gratia in the absolute discretion of the authority competent to grant reward and I have no right to dispute the correctness of the decision in any court of law. (g) In the event of may death before the reward is paid to me, it may be paid to.....	
9	Signature of the officer before whom the statement is signed Designation of the officer Date : Place:	Signature of the informant Informant's No., if any

**Proposal for granting of interim reward/part of
final reward/final reward (see provisos below paragraph 2.1)
of the Guidelines for grant of rewards to informants, 1993**

1	Name of the case in which information was furnished by the informant(s)	
2	Date of furnishing of information	
3	Applicable Guidelines for the computation and grant of reward	
4	(a) Brief description of the information/ documents/evidence furnished by the informant(s) (b) Action taken on the information indicating the date and the outcome. Clarify the extent to which the result of the action taken is attributable to the information furnished	
5	(a) Whether a written statement under the relevant Guidelines was furnished by the informant(s) (b) Whether a written undertaking referred to in the relevant Guidelines was furnished by the informant(s)	
6	Amount of reward recommended for which approval is sought (a) Total amount of reward recommended including reward already Granted/sanctioned in the past (b) Amount out of (a) which has already been sanctioned/ paid to the Informant(s) (i) Interim reward (ii) Ad-hoc reward (iii) Part of final reward (iv) Total of (i) to (iii) (c) Net amount of further reward now recommended {(a)-(b)(iv)} Interim reward/Ad-hoc reward/Part of final reward/Final Reward (d) If there is more than one informant, the ratio in which the reward is proposed to be distributed amongst them.	
7	If any of the rewards referred to in S.No. 6(b) was granted with the approval of Board/Committee, enclose a copy of the letter of approval	
8	(a) Basis for computation of reward indicating the para no. of the applicable Guidelines, the extra tax levied and realised which is attributable to the information furnished, percentage of extra tax proposed as reward. (b) If the reward recommended exceeds the prescribed monetary limit, reasons for recommending higher amount of reward.	
9	(a) Whether all the assessment have become final (in case of pendency of appeals, etc., give details)	

	(b) Whether extra tax levied and realised is directly attributable to the information/documents evidence furnished by the informant(s) (c) Whether the authority recommending reward has compared the information furnished with the assessments/extra taxes levied and realised and is satisfied that the information furnished justifies the amount of reward recommended. (d) Whether the circumstances referred to in para 11.1 of the 1993 Guidelines or relevant paras of earlier guidelines, as the case may be, have been kept in view while recommending the reward.	
10	Whether the case has been checked by Internal Audit Party? If yes, enclose certificate of IAP regarding correctness of extra tax levied and realised	
11	(a) Whether information in this case was received by the Income-tax Department from any other Government Department (b) If so, whether any reward is payable to the informant(s) who furnished information to the other Government Department (State reasons)	
12	Whether the informant is a government servant? If so, whether the information was furnished by him in the course of his normal duty as a government servant?	
Submitted to the Director General (Investigation) in duplicate in accordance with paragraph 2.2/2.3 of the Guidelines for Grant of Rewards to Informants, 1993.		
	Encl.: As above	
	Signature:	
	Date:	
	Name :	
	Designation:	
	Copy to CCIT	

ANNEXURE - 70

INSTRUCTION: 1916*Date of Issue: 11.05.1994****Subject: Guidelines for seizure of jewellery
and ornaments in course of search***

F. No. 286/63/93-IT (Inv. II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

**All Directors General (Inv.)/
Chief Commissioners of Income-tax/
All Directors of Income-tax (Inv.)
Commissioners of Income-Tax**

Sir,

Subject: Guidelines for seizure of jewellery and ornaments in course of search

Instances of seizure of jewellery of small quantity in the course of operations under Section 132 have come to the notice of the Board. The question of a common approach to situations where search parties come across items of jewellery, has been examined by the Board and following guidelines are issued for strict compliance:

- (i) In the case of a wealth-tax assessee, gold jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return only need be seized.
- (ii) In the case of a person not assessed to wealth-tax, gold jewellery and ornaments to the extent of 500 gms. per married lady, 250 gms. per unmarried lady and 100 gms. per male member of the family, need not be seized.
- (iii) The authorised officer may, having regard to the status of the family and the customs and practices of the community to which the family belongs and other circumstances of the case, decide to exclude a larger quantity of jewellery and ornaments from seizure. This should be reported to the Director of Income-tax/Commissioner authorising the search at the time of furnishing the search report.
- (iv) In all cases, a detailed inventory of the jewellery and ornaments found must be prepared to be used for assessment purpose.

These guidelines may please be brought to the notice of all the officers in your region.

Yours faithfully,

Sd/-

Siddhartha Mukherjee
Secretary, CBDT

ANNEXURE - 71**INSTRUCTION: 1927***Date of Issue: 21.07.1995*

Section(s) Referred: S. 158B, 158BA, 158BB, 158BC, 158BD, 158BE, 158BF, 158BG, 158BH of IT Act, 1961

A special procedure for assessment of search cases has been provided in Chapter XIVB of the Income-tax Act, 1961. A concept of 'block period' assessment has been introduced which is applicable for searches initiated/requisitions issued on or after 1st July, 1995. For effective implementation of the block assessment scheme, it has been decided that the following procedure shall be followed:

- (i) where the jurisdiction over an assessee is with an Assistant Commissioner or Deputy Commissioner (Special Range), the block assessment shall be completed by him.
- (ii) where the jurisdiction over the assessee is with an ITO, the CIT shall transfer the case to an Assistant Commissioner or Deputy Commissioner (Special Range) u/s 127 of the I.T.Act.
- (iii) In the cities of Delhi, Bombay, Calcutta, Madras, Ahmedabad and Bangalore - the Jurisdiction over the block assessment shall be conferred, as far as possible, on a DC (Special Range) working under the respective Commissioner.
- (iv) The ADIT concerned shall, within one week of the commencement of the Search, intimate the CCIT and CIT having territorial jurisdiction over the assessee and the DGIT/DIT shall, where necessary, also send suggestions for conferring jurisdiction over the block assessments to an Assistant Commissioner or Deputy Commissioner (Special Range).
- (v) The ADIT concerned shall prepare and forward the appraisal report positively within 60 days of the commencement of the search. If this period is to be exceeded, written permission of the DG shall be obtained.
- (vi) The seized material shall be handed over to the Assessing Officer at the earliest.
- (vii) The appraisal report shall contain information/analysis on the following points:-
 - (a) Date of commencement and conclusion of the search and date of limitation for completing the assessment for block period.

- (b) Identification of all assessee's ward/circle wise in whose cases block assessments have to be made.
 - (c) Gist of information leading to search.
 - (d) Reasons, break up and analysis of tax evaded income admitted during and/or after the search.
 - (e) Identification of the incriminating entries in books of account and documents along with analysis thereof.
 - (f) Broad but reasonable estimate of the undisclosed income and its correlation with the assets, investments and consumption expenditure.
 - (g) Specific suggestions regarding follow up of the investigations.
 - (h) Comments and observations of DD/DIT especially in regard to (f) and (g) above.
- (viii) Cases where the D.G. is of the view that immediate centralisation would be in the interest of proper investigation, shall be centralised and the assessments got completed in Central Circles.
2. The above procedure shall operate with immediate effect and shall apply to all searches initiated on or after July 1, 1995. Old cases would continue to be governed by earlier instructions on the subject.
3. A separate register shall be maintained by the assessing officer handling block assessment regarding pendency and disposal of block assessments as also the tax demands raised and collected in respect thereof. A quarterly statement shall be obtained by the CIT from the respective Assessing Officers, consolidated and sent to CCs. In turn, CCs would send such information to the Board.
4. These instructions may be brought to the notice of all the officers working in your region.

ANNEXURE - 72

Date of Issue: 12.03.1996

Subject: Appraisal report under New Scheme of search assessments

F. No. 286/154/95-IT (Inv. II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To**All Directors of Income-tax (Inv.),****By name****Subject : Appraisal report under New Scheme of search assessments**

Sir,

I am directed to enclose herewith a proforma of the Appraisal Report incorporating the suggestions received from field formations for implementation and necessary action at your end. In the event of any difficulty being observed in implementation, the same may be brought to the notice of the Board.

Yours faithfully,

Sd/-

(Mrs. Pragya Sahay)

Under Secretary to the

Govt. of India

Encl: As above.

DRAFT PROFORMA**Appraisal report under new scheme of search assessment***

(To be sent before 60th day of commencement of search)

*Please see CBDT's Instruction No.1927 dated 21.7.95

1	Name and address of the group
2	Introductory Remarks (Brief History of the case) Gist of allegation leading to the search
3	Assessee covered by Sections 158BA(1) and 158BC
	i) Name and address
	ii) Dates of commencement
	iii) Completion
	iv) Limitation for assessment

	v) Status						
	vi) PAN						
	vii) Assessing Officer						
4	Particulars of other assessees in the group/concerned cases						
	Name and address		Relationship Officer	Status	GIR/PAN	Assessing	
	i)						
	ii)						
	iii)						
5	Premises covered u/s 133A in connection with the search action						
6	Details of assets found/seized in each of the premises						
	Assets Found			Assets Seized			
	Premises	Cash	Jewels/ Bullion	Others*	Cash	Jewels	Others
	i)			*Valuable articles, things entry in books of A/cs other documents, trans-actions which represent income or property which has not been and would not have disclosed for the purpose of the Act (Re.158B(b))			
7	Analysis of seized materials- Identification of incriminating entries in books of a/c documents computer printouts along with analysis thereof						
8	Discussion of Modus Operandi followed by 'A', breakup and analysis of the evaded income admitted during and/or after the search						
9	Preliminary reasonable estimate of undisclosed income head wise - (u/s 68, 69 & 69 A, B, C) and its correlation with the assets, investment, consumption expenditure etc.						
10	Specific suggestion for further follow-up enquiry/investigation by the Assessing Officer (Point-wise/Issue-wise)						
11	Conclusion		(i) Prosecution potential. Please indicate nature of offence and evidence available		(ii) Details of sensitive documents to be in personal custody of A.O.		
12	Comments and observation of DD/DIT especially in regard to (9) & (10) above						

ANNEXURE - 73

Date of Issue: 02.02.1999

Subject: Search & Seizure cases - release of seized assets -

Instructions - reg.-

F. No. 286/247/98-IT(Inv. II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

All Director Generals of Income-Tax (Inv.)

All Chief Commissioners of Income-Tax

**Subject: Search and Seizure cases- release of seized assets - Instructions
- reg.-**

Sir,

Instances have come to the notice of the Board of seizure of assets, which prima facie, appear to have been disclosed in the regular books of accounts maintained by the persons subjected to the searches.

1. In such cases of seizure of declared assets, the seized assets could be released subject, of course, to recovery action by the Department against existing arrears.
2. There are also instances where jewellery or perishable stocks are seized. The searched parties sometimes request for release of jewellery on grounds of need for personal use. The perishable stocks again, if not released, could deteriorate in quality leading to erosion in their value. In such cases, it has been decided that if an unconditional irrevocable bank guarantee to the full extent of the value of the seized assets is given, the assets could be released to that extent. The valuation is to be done by the Income-tax Department and the guarantee should be clear and unequivocal.
3. The bank guarantee should be valid till the relevant assessment proceedings are complete and taxes are collected. The Department should have the option to enforce the guarantee at any point of time.
4. It will also be ensured that in cases where the seized assets will have specific evidentiary value in prosecution, the assets will not be released till the completion of prosecution proceedings.

Yours faithfully,

Sd/-

Kavita Bhatnagar

ANNEXURE - 74

Date of Issue:13.11.1999
Subject: Revised Telex proforma - regarding-
F. No. 286/140/99-IT(Inv. II)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

To
All Director Generals of Income-Tax (Inv.)
Subject: Revised Telex proforma - regarding-

Sir,

I am directed to refer to the Board's letter of even no. dated 22-9-1999 wherein a revised Telex proforma for sending a report regarding search and seizure action was forwarded to your charge.

A minor change has been made in the said proforma by incorporating new column no. 4 just after column no. 3 (copy enclosed). The telex report henceforth may be invariably sent in the newly revised proforma.

Yours faithfully,

Sd/-
Kavita Bhatnagar
Under Secretary to the
Govt. of India

For prescribed format of the Telex report, see Appendix II of the Manual

ANNEXURE - 75

Date of Issue: 7.3.2001

Subject: Search and seizure actions - Instructions - reg.-

F. No. 289/10/2001-IT (Inv. II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

All DGs IT (Inv.)

All CCs IT

Subject : Search and seizure actions - Instructions - reg.-

Sir,

In order to make search and seizure action an effective tool for detection of concealment of income without 'avoidable harassment' to the taxpayers, the Board are of the view that the following procedures are to be strictly adhered to before undertaking further searches:

- (i) DGsIT (Inv.) are to exercise greater control by reviewing and monitoring of search cases to ensure that law and procedure for issue of warrants and completion of search proceedings are strictly followed and warrants are issued only for the purposes for which the search is authorised. Henceforth, DIT (Inv.) will obtain administrative approval of DGIT (Inv.) before a search warrant is issued.
- (ii) Efforts should be made to prevent indiscriminate seizure causing avoidable harassment to the taxpayers. For this purpose, the search party should equip itself with full information regarding the declared assets of the taxpayer from the returns of income/wealth filed, so that only undisclosed assets are seized as a result of search for quantifying the concealed income and appropriation of taxes due on such income. A quarterly report is required to be sent by DGsIT to Member (Inv.) CBDT revealing the undisclosed assets/documents actually seized with reference to the projections of seizure as recorded in the satisfaction note drawn for undertaking searches.
- (iii) In case an asset has been wrongly seized during search operations conducted earlier, the Board's instruction F. No. 286/247/98-IT (Inv. II) dated 2nd Feb., 1999 shall be acted upon strictly to mitigate hardship caused to person searched.
- (iv) The present time limits, both statutory and administrative, should

be strictly followed for completion of search procedure and preparation of Appraisal Reports.

- (v) No investigation Unit should be allowed to take up a new search before completion of the report for the earlier search.
- (vi) At present, DsIT(Inv.) review all restraint orders u/s 132(3) after 30 days for continuance of such orders. Henceforth, the extension of restraint orders beyond 30 days may be allowed only with the administrative approval of DGsIT(Inv.) .
- (vii) The information on all highly sensitive cases may be brought to the notice of Member (Inv.) and Chairman, CBDT at the earliest so that the Board stand fully aware.
- (viii) Steps should be taken to ensure that no information is given to the Press on search cases. This is based on the fact that search operation is only a tool of investigation and all the details gathered at the time of search are to be examined before coming to any conclusion. It would be premature to give any information at that stage.
- (ix) DIT (System) is being asked to develop a software for capturing data containing basic assessment information for last 3 years for all individual assesseees having income over Rs. 5 lakhs. It is suggested that information be networked among the DGsIT(Inv.) on their computers and no DGIT should be authorised to delete any information from the Data Bank.
- (x) The list to top 20 taxpayers of each CCIT/DGIT charge and of corporate assesseees with income above Rs. 10 crore in Mumbai, Delhi, Calcutta and Chennai and above Rs. 1 crore in all other places may be placed in the Data bank. Efforts should be made to revive 'High Flyers Taxpayers List' for metropolitan charges.
- (xi) The Taxpayers Charter indicating Rights and Duties of the Taxpayers issued by CBDT (ITR Vol. 208 (St) 1994) is enclosed herewith. This charter, will henceforth become a part of the search kit to be handed over to the person searched by the authorised officer at the commencement of the search to prevent avoidable harassment to persons searched.

Yours faithfully,

Sd/-

A.Bandopadhyay
Director (Inv.II & III)

Encls: Annexures 'A' & 'B'

Annexure 'A'**Rights of the person to be searched**

1. To see the warrant of authorisation duly signed and sealed by the issuing authority.
2. To verify the identity of each member of the search party.
3. To have at least two respectable and independent residents of the locality as witnesses.
4. To have personal search of all members of the party before the start of the search and after conclusion of the search.
5. To insist on a personal search of females by another female only with strict regard to decency.
6. To have a copy of the panchnama together with all the annexures.
7. To put his own seals on the packages containing the seized assets.
8. Woman having the occupancy of any apartment etc., to be searched has right to withdraw before the search party enters, if according to the customs, she does not appear in public.
9. To call medical practitioner if he is not well.
10. To have his children permitted to go to school, after the examination of their bags.
11. To inspect the seals placed on various receptacles sealed in course of searches and subsequently reopened by continuation of searches.
12. To have the facility of having meals, etc., at the normal time.
13. To have a copy of any statement before it is used against him in an assessment or prosecution proceedings.
14. To have inspection of the books of accounts, etc., seized or to take extracts therefrom in the presence of any of the authorised officers or any other person empowered by him.
15. To make an application objecting to the approval given by the Commissioner of Income-tax for retention of books and documents beyond 180 days from the date of the seizure.

PARTY'S SIGNATURE

Date:

Witness 1

Countersigned

Witness 2

Authorised Officer

Note: A copy of this invariably be served on the person searched in the presence of witnesses by the authorised officer of the search party on entering the premises.

Annexure - B**Duties of the person searched**

1. To allow free and unhindered ingress into the premises.
 2. To see the warrant of authorisation and put signature on the same
 3. To identify all receptacles in which assets or books of account and documents are kept and to hand over keys to such receptacles to the authorised officer.
 4. To identify and explain the ownership of the assets, books of account and documents found in the premises.
 5. To identify every individual in the premises and to explain their relationship to the person being searched. He should not mislead by impersonation. If he cheats by pretending to be some other person or knowingly substitutes one person for another, it is an offence punishable under section 416 of the Indian Penal Code.
 6. Not to allow or encourage the entry of any unauthorised person into the premises.
 7. Not to remove any article from its place without notice or knowledge of the authorised officer. If he secretes or destroys any document with the intention of preventing the same from being produced or used as evidence before the court or public servant, he shall be punishable with imprisonment or fine or both, in accordance with section 204 of the Indian Penal Code.
 8. To answer all queries truthfully and to the best of his knowledge. He should not allow any third party to either interfere or prompt while his statement is being recorded by the authorised officer. In doing so, he should keep in mind that:-
 - i) If he refuses to answer a question on a subject relevant to the search operation, he shall be punishable with imprisonment or fine or both, under section 179 of the Indian Penal code;
 - ii) Being legally bound by an oath or affirmation to state the truth, if he makes a false statement, he shall be punishable with imprisonment or fine or both under section 181 of the Indian Penal Code;
 - 1iii) Similarly, if he provides evidence which is false and which he knows or believes to be false, he is liable to be punished under section 191 of the Indian Penal Code
1. To affix his signature on the recorded statement, inventories and the panchnama.
 2. To ensure that peace is maintained throughout the duration of the search, and to cooperate with the search party in all respects

so that the search action is concluded at the earliest and in a peaceful manner.

3. Similar cooperation should be extended even after the search action is over, so as to enable the authorised officer to complete necessary follow-up investigations at the earliest.

PARTY'S SIGNATURE

Date:

Witness 1

Countersigned

Witness 2

Authorised Officer

Note: A copy of this invariably be served on the person searched in the presence of witnesses by the authorised officer of the search party on entering the premises.

ANNEXURE - 76

Date of Issue: 03.7.2002

***Subject: Search & Seizure work/block
assessments-matters relating thereto***

F. No. 286/57/2002-IT(Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

All Directors General of Income Tax (Inv.),

All Chief Commissioners of Income Tax

**Subject: Search & Seizure work/block assessments-matters relating
thereto**

Sir,

In order to make search and seizure action an effective tool for detection for concealment of income resulting into deterrence to tax evasion without causing avoidable harassment to the tax payers, it is incumbent on the part of officers concerned that all the works relating to search and seizure action and block assessments are carried out with full degree of objectivity and accountability in accordance with the provisions of law and instructions issued by the Board from time to time. In this regard, Board desires that the following actions should be strictly implemented: -

- i. Statement under Sec 132(4) should be carefully recorded to collect and marshal the facts and evidences because it is the earliest opportunity to do so. Disclosure of undisclosed income in statement under Sec 132(4) without proper evidence in support thereof shall be adversely viewed. In the telex report, details of evidence in support of disclosure, if any under sec 132(4) should be clearly spelled out.
- ii. Proper care should be taken for taking back up of the data stored in the computers during search action. For this purpose, officials having acquaintance with computer work should be taken in search team.
- iii. Search & seizure work should be completed as early as possible and restraint order u/s 132(2) should be lifted within one month from the date of passing such order(s).
- iv. Wide publicity should be given to search & seizure cases by DGIT (Inv.) without naming the persons searched. However, in sensitive cases, Member (Inv.) should be consulted in advance.

- v. Due care should be taken in preparing the appraisal report with objectivity. Concerned officers of the wing should point out references to seized record, statement, etc for each proposal for verification.
- vi. Newly inserted sec 132B provides to release the explained seized assets within 120 days from the date of search. Assessee should be given sufficient opportunity by the assessing officer in support of claim that seized assets are explained.
- vii. Following time schedule be strictly followed for completing various work from the date of intimation of search:
 - a. Initiation of proposal for centralization one month
 - b. Completion of centralization work, two month
including orders under sec 127 etc.
 - c. Completion of appraisal report two months
 - d. Handing over of appraisal report/seized two & a half
records with copies of warrants to months
Assessing Officer
 - e. Notices under sec 158 BC three months
- viii. Inspection of seized record and copies of statement(s) taken should be allowed within 15 days from the date of receipt of application in this regard.
- ix. Copies should be expeditiously examined for provisional attachment of assets under sec 281B.
- x. The tendency to take up the assessment proceedings at a very late stage should be stopped. Same should be taken up immediately after expiry of time allowed for filing of return in Form 2B.
- xi. Wherever there is a major deviation between the income proposed to be assessed and the income estimated in appraisal report, the matter should be discussed between assessment wing and investigation wing and minutes of the same should be recorded.
- xii. Due opportunity should be given to the assessee by the supervisory officer giving approval to proposed block assessment, at least one month before the time barring date.
- xiii. Money deposited in PD Accounts should be expeditiously adjusted against the demand.
- xiv. The cases as emphasized by Member (Inv.) in his letters dated 21st/24th June 2002 sent to DGIT(Inv.) and CCIT separately ,

should be processed quickly for intimation of prosecution proceedings.

- xv. Range Addl./Joint CIT shall send a progress report in all search & seizure cases at interval of every three months to CIT and of every six months to DGIT (Inv.)/CCIT from end of the month in which search was concluded.
- xvi. Range Addl./Joint CIT shall also maintain a register for each search & seizure case including pending cases incorporating following details:
 - 1. Name of the assessee
 - 2. Date of initiation and completion of search
 - 3. Whether case covered by sec 158 BD
 - 4. Seizure made with break up
 - 5. Disclosure, if any, u/s 132(4)
 - 6. Date of passing orders for centralization
 - 7. Date of receipt of Appraisal Report
 - 8. Date of receipt seized records including copies of warrants
 - 9. Date of application, if any, received for inspection and date on which inspection actually allowed
 - 10. Date of issue of notice u/s 158 BC
 - 11. Date of filing return for block assessment
 - 12. Income disclosed in block return
 - 13. Details of tax paid on income disclosed in block return
 - 14. Adjustment from PD Accounts, if any against tax on income disclosed in block return
 - 15. Date of application, if any, from the assessee making a claim that seized assets or part thereof are explained.
 - 16. Details and date of decision on (15) above, as per newly inserted Section 132B
 - 17. Date of first notice to take up block assessment proceedings and also details of subsequent notices/questionnaire/hearing etc.
 - 18. Date(s) of hearing before Addl. CIT/Joint CIT required to grant approval to block assessment
 - 19. Assessed income with date of order
 - 20. Tax liability on assessed income.
 - 21. Details of adjustment from PD account, after completion of block assessment with date

22. Whether case processed for launching prosecution and details of prosecution if any, launched.

This register, in respect of all the pending assessments where search conducted prior to 1-4-2002 should be ready by 31st July 2002.

Commissioner of Income Tax and DGIT (Inv.)/CCIT shall inspect this register once in every three months/six months respectively and offer their comments by making an entry in said register itself. Member (Inv.) shall also inspect this register during his visit.

ANNEXURE - 77

Date of Issue : 10.03.2003

Subject: Confession of undisclosed income during search/survey - reg

F. No. 286/2/2003-IT (Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

Instances have come to the notice of the Board where assesseees have claimed that they have been forced to confess the undisclosed income during the course of the search & seizure and survey operations. Such confessions, if not based upon credible evidence, are later retracted by the concerned assesseees while filing returns of income. In these circumstances, such confessions during the course of search & seizure and survey operations do not serve any useful purpose. It is, therefore, advised that there should be focus and concentration on collection of evidence of income, which leads to information on what has not been disclosed or is not likely to be disclosed before the Income Tax Department. Similarly, while recording statement during the course of search & seizure and survey operations no attempt should be made to obtain confession as to the undisclosed income. Any action on the contrary shall be viewed adversely.

Further, in respect of pending assessment proceedings also, assessing officers should rely upon the evidences/materials gathered during the course of search/survey operations or thereafter while framing the relevant assessment orders.

ANNEXURE - 78

Date of Issue : 22.05.2003

Subject: Minutes of the 'All India Conference of DGIT (Inv.)/CCIT (Central)' held on 10.5.2003 at Mumbai

F. No. 286/29/2003-IT(Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

**All Directors General of Income Tax (Inv.) and
All Chief Commissioners of Income Tax**

Sir,

Subject: Minutes of the 'All India Conference of DGIT (Inv.)/CCIT (Central)' held on 10.5.2003 at Mumbai.

Please find enclosed herewith the minutes of the All India Conference of the Directors-General of Income Tax (Inv.) and Chief Commissioners of Income Tax (Central) held on 10th May, 2003 for necessary action at your end. Member (Inv.) has desired that the decisions taken should strictly implemented immediately. Wherever necessary, suitable instructions from the Board will follow shortly.

Yours faithfully,

Sd/-

(SHARAT CHANDRA)
Director (Inv. II & III)

Encl. As above.

An All India Conference of the Directors General of Income Tax (Inv.) and Chief Commissioners of Income Tax (Central) was convened by Member (Inv.), CBDT on 10.5.2003 at Aayakar Bhavan, Mumbai. Deliberations were mainly focused on following topics:

1. Search & Seizure operations - Strategy and approach for F.Y.2003-04,
2. Improving quality of Search & Seizure operations, Maintenance of record to provide MIS at various stages,
3. Reduction of arrear demand in Central Charges and disposal of appeals,
4. Redressal of grievances on account of unwarranted seizure and delay in payment of reward to informants,
5. Amendments brought by Finance Bill, 2003 with regard to Search & seizure operations/assessments.

The Conference commenced with welcome address by Director General of Income Tax (Inv.), Mumbai. He stressed that deliberations in the Conference shall have to identify the key issues which will help in smooth functioning and result oriented functioning of Investigation Wing/Central Charges.

Member (Inv.) in his keynote address highlighted the achievements of Investigation Wing during F.Y. 2002-03 and appreciated the improvements in the quality of searches carried out during F.Y. 2002-03. He also observed that good performance of the Investigation Wing has been reflected in a large number of rewards to officers and staff sanctioned by the Board in search and seizure cases recently. He, however, expressed concern over large arrears in Central Charges (Approx. 50% of the total arrears).

Following decisions were taken during deliberations in the Conference:

- (I) Posting in Investigation Wing should not be treated as a tenure posting and if the performance of any officer is not found satisfactory, he can be transferred any time out of Investigation Wing/Central Charges.

[Action: All DGsIT(Inv.)/CCsIT(C)]

- (II) Quality of assessments made in Central Circles are not up to the expectation and needs a lot of improvement. DGsIT(Inv.) and CCsIT(Central) should ensure that such tendency of making unwarranted additions on the part of the AO are curbed at the earliest. Therefore, it was decided that all DGIT(Inv.)/CCIT (C) should review the assessment made in 2002-03 in Central Charges where additions made more than Rs.10 crore in metropolitan and Rs. 5 crore in non-metropolitan charges. Formal letters shall be issued by the Board in consultation with DGs.

[Action: DGIT(Inv.)/CCIT(C), DS(Inv.I),CBDT]

- (III) Member (Inv.) advised all DGIT (Inv.)/CCIT(C) to look into workload of CIT(A)(C) and redistributed the work. He desired that appeals in scam cases of 1992 at Mumbai should be disposed of by 31.5.2003.

[Action: All DGsIT(Inv.)/CCsIT(C)]

- (IV) DGIT (Inv.) should play a pro-active role in selection of case for search. He should get involved in this exercise right from the inception. The final responsibility of selection of case for search rests with DG.

[Action : All DGsIT(Inv.)/DIT(Inv.)]

- (V) If a DGIT (Inv.) wants to cover a premises for search in jurisdiction of other DGIT (Inv.), he shall normally and ordinarily inform and coordinate in advance with the other DGIT (Inv.) about the proposed search and the search warrant shall be signed by the DIT(Inv.) in whose jurisdiction that premises falls.
[Action : All DGsIT]
- (VI) 'Brief' prepared for the guidance of authorised officers should be approved by DIT(Inv.). Instructions may be issued by the Board.
[Action : DGIT (Inv.)/Director (Inv.II),CBDT]
- (VII) As regards the functioning of Air Intelligence units (AIU), the Member (Inv.) informed that a committee of three DGsIT (Inv.) of Delhi, Mumbai & Chennai region would be constituted for studying the functioning of AIU and suggesting measures for strengthening and streamlining the same.
[Action: Director (Inv. II), CBDT]
- (VIII) In view of the amendments proposed by the Finance Bill, 2003 for not seizing stack-in-trade, emphasis should be shifted to collection of evidence for establishing concealment.
[Action: All DGsIT (Inv.)]
- (IX) Income/investment verification from IT records should invariably be made before effecting seizure of assets/valuables. If same is not possible on the first day of search, prohibition order u/s 132(3) can be passed and relevant evidences can be collected from assessee to determine the need for seizure.
[Action: All DGsIT]
- (X) Regular books of accounts, documents like passport, Export documents, etc. should not be generally seized.
[Action : All DGsIT]
- (XI) There should be due application of mind while considering release of assets u/s 132B. It was also decided to examine as to whether Investigation Wing can also release the disclosed seized assets.
[Action: All DGsIT/CCsIT(C)/Director (Inv. II),CBDT]
- (XII) There should not be any detailed investigation by DDIT (Inv.) as far as possible, during post search period. The case record/ Appraisal Report should be handed over to the Assessment Officer as early as possible within a period of 60 days after the search. The appraisal reports prepared by Investigation Wing should be brief and cover the relevant issues.
[Action: All DGsIT (Inv.)]
- (XIII) Benefit of telescoping should be given to the extent of availability

of evidence. Investigation wing should not quantify either concealment or telescoping, but they may suggest telescoping in appropriate cases. Telescoping has to be decided by the AO. Practice of joint meeting of the Investigation Wing and Central charges for resolving the difference on their perception with respect to the undisclosed income as prescribed by Board's Instruction dated 3.7.2002 shall continue.

[Action: All DGsIT (Inv.)/CCsIT (Central)]

- (XIV) The new procedure for assessment relating to search & seizure cases does not prescribe statutory approval of assessment by Addl./Joint CIT, therefore, it was considered to examine, at Board level whether administrative instructions for monitoring and approval of assessment by Addl./Joint CIT can be issued so that quality of assessment in such cases could be improved.

[Action: Director (Inv. II), CBDT]

- (XV) The registers prescribed by the Board vide Instruction dated 3.7.2002 for monitoring details of search/seizure operation and assessment thereof should further include columns with regard to income as determined after CIT(A)/ITAT orders and details of recovery made during post-search assessments and also details of prosecution, if any, launched. Instruction to be issued by the Board.

[Action: Director (Inv. II)]

- (XVI) Internal Audit System of Central Charges as prescribed by the Board in non-Metro charges is to be reviewed because internal audit work takes away a major chunk of time available to the officers of Central Charges.

[Action: DS (Inv. I)]

- (XVII) In cases where no appeals have been filed, suo-moto u/s 264 of Income Tax Act, 1961 can also be resorted to set aside the assessments with high pitched additions and frivolous demand.

[Action: All DGsIT (Inv.)/CCsIT (Central)]

- (XVIII) One Inspector should be posted with each CIT(A) (Central).

[Action: All DGsIT (Inv.), CCsIT]

- (XIX) As regards dossier report, especially in cases where there are no material changes, it was agreed in principle that a detailed dossier be sent only once and later on, only material changes can be reported. It was also decided to examine as to whether dossiers could be sent through e-mail. Matter will have to be taken up with DI (Recovery).

[Action: DS (Inv. I), CBDT]

- (XX) It was agreed that no fresh PD accounts will be opened in the name of the CsIT. Here after PD account will be opened & operated by DsIT (Inv.) Only. The proposal of PD A/c to be opened & operated by DsIT only will be examined at the Board level. Legal position shall also be examined by the Board before issue of such instruction.
[Action: Director (Inv. II), CBDT]
- (XXI) All the DGsIT will take necessary steps to identify seized assets held in the strong room under the control of DsIT (Inv.) In old cases (to start with more than 10 years old) and initiate proceedings to release or apply the same against outstanding demands as the case may be.
[(Action: All DGsIT (Inv.)]
- (XXII) Many posts in Investigation Wing/Central Charges created during restructuring of the Department are not carrying special pay. Matter may be taken up with relevant desks of the Board.
[Action: Director (Inv. II), CBDT]
- (XXIII) During F.Y.2002-03, a Committee was constituted under the Chairmanship of DGIT (Inv.), Jaipur to look into the sanctioned strength/working strength and deficiency of manpower in Investigation Wing/Central Charges. There is no progress on report submitted by that Committee.
[Action: DS (Inv. I), CBDT]
- (XXIV) There should be frequent training of officers of the Investigation Wing by NADT and RTIs. Matter may be taken up with DG, NADT.
[Action: Director (Inv. II), CBDT]
- (XXV) Member (Inv.) Stated that a Committee headed by DGIT (Inv.), Mumbai has been constituted for review of the guidelines for grant of reward to the informants. All suggestions in this regard should be sent to the said Committee. He further wanted the matter of reward to informants be given top priority and the pending cases to be cleared by 30th June, 2003.
[Action: All DGsIT (Inv.)]

ANNEXURE - 79

INSTRUCTION : 7 OF 2003

*Date of Issue: 30.7.2003****Subject: Search & Seizure - matters relating thereto***

F. No. 286/77/2003-IT(Inv. II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

All Director Generals of Income-tax (Inv.)

Subject : Search & Seizure - matters relating thereto

Sir,

With a view to focus on high revenue yielding cases and to make the optimum use of manpower, the Board has decided that officers deployed in the Investigation Wing should restructure their activities. They should henceforth strictly adhere to the following guidelines:

- (i) Searches should be carried out only in cases where there is credible evidence to indicate substantial unaccounted income/assets in relation to the tax normally paid by the assessee or where the expected concealment is more than Rs. 1 crore.
 - (ii) Search operation will also be mounted when there is evidence of hidden unaccounted assets arising out of a conspiracy to cause public harm, terrorism, smuggling, narcotics, fraud, gangsterism, fake currency, fake stamp papers and such other manifestations;
 - (iii) Tax payers who are professionals of excellence should not be searched without there being compelling evidence and confirmation of substantial tax evasion.
2. Henceforth, search operations shall be authorized only by the concerned DGIT (Inv.) who will be accountable for the action initiated by the officers working under him. He should also ensure that all the work relating to search & seizure, like post-search inquiries, preparation of appraisal report and handing over of seized books of accounts. Etc. should be completed by the Investigation Wing within a period of 60 days from the date on which the last of the authorisations for search was executed.
3. DGsIT (Inv.) are requested to ensure that officers of competence and proven integrity are taken in the Investigation Wing. The officers posted in the Investigation Wing will be trained at NADT in a special course for which arrangements will be separately made.
4. DGsIT (Inv.) are required to ensure strict compliance of the above guidelines/ instructions.

Yours faithfully,

Sd/-

Sharat Chandra
Director (Inv. II & III)

ANNEXURE - 80

Date of Issue: 06.04.2004

Subject: Release of Jewellery and Seized Assets

F. No. 286/35/2004-IT(Inv. II)

Release of Jewellery and Seized Assets:

Release of seized jewellery against bank guarantee may be decided in accordance with the Board's instruction dated 2-2-1999(copy enclosed). For this purpose, the bank guarantee has to be obtained to the full extent of seized jewellery to be valued at the rate applicable at the time of release of jewellery.

ANNEXURE - 81

INSTRUCTION NO. 6 of 2004

Date of Issue: 15.06.2004

Subject: Reward matters and guidelines

F. No. 246/108/2004/A & PAC-I

Reward matters and guidelines

1. One of the preconditions for grant of reward to informants in search cases is that the reward proposal, to be prepared by the Investigation Wing, should be accompanied by an audit certificate. The audit certificate by the Internal Audit Party as laid down in the guidelines to the Reward rules 1993, helps ascertain the quantum of gain to the revenue arising out of the information attributable to the informant.
2. Para 11.2 of the Guidelines for Grant of Rewards to Informant, 1993 reads as under :
 - "a. When the amount of reward, including reward if any already granted is Rs. 1 lac or more the CIT/DIT shall, before the grant of reward, get the case checked by the Internal Audit Party and obtain a certificate regarding the correctness of the extra tax levied/recovered.
 - b. N.B. For the purpose of this sub-para, reward includes final reward, part of final reward and reward in cases where the information leads to recovery of irrecoverable taxes but does not include interim or adhoc reward."
3. The role of the internal audit has been further clarified to para 4 of the DO F. No. 292/14/93-IT (Inv. III) dated 30th November 1993.
 - i. "The authority competent to grant reward would furnish the details of additions/disallowances/surrender of income made in the assessments and which are attributable to the information furnished by the informant to the IAP. The Internal Audit Party would not only check the assessments and correctness of taxes levied and recovered (as is done in case of normal checking of case by IAPs) but would also work out the extra tax attributable to the information and whether the same has been collected or not. The extra tax attributable to the information would be the difference between tax on total income assessed and the tax, which would have been levied, had the additions/disallowance/surrendered income etc. attributable to the information furnished so been included. It may be clarified that it would not be open to the IAPs to question the decisions of authority competent to grant award, as to whether a particular addition/disallowance/surrender of income is attributable to the information furnished"

4. Consequent to the replacement of the erstwhile Internal Audit System with the new “Chain Audit” system with effect from 1-8-2001, the work relating to issue of audit certificate requires to be assigned afresh to an authority, with a view to facilitate grant of rewards.
5. The matter has, therefore, been examined in the Board. It has been decided that in multi-Chief Commissioners charges where the institution of CIT (Audit) has been set up, the authority to issue audit certificates in cases of reward to informants would vest with Addl. CIT/JT.CIT (Audit). This task will be in addition to the duties already prescribed for CIT (Audit) in Para 2 and Para 3 of Instruction No. 08/2001. The references seeking audit certification should, therefore, be sent to the CIT (Audit) in these centers by the investigation wing.
6. As regards other CCIT charges, the task of verifying gain to the revenue, additional demand raised and collected etc., would form part of the duty of the designated auditors in the ‘Audit Chain’. The Investigation Wing will, after ascertaining the assessment jurisdiction of the case, make a reference to the Addl.CIT/JCIT of the Auditor and Auditee Range to obtain the certificate. The Addl.CIT/JCIT of the ‘Auditor’ range would then take steps to ensure that audit is done in conformity with the guidelines contained in Para 4 of Board’s DO letter dated 30-11-1993 forwarding the Reward Rules 1993, as referred to above. After ascertaining the gain to the revenue attributable to information given by the informant and the collection of tax thereof, the Addl.CIT/JCIT will issue the certificate.

ANNEXURE - 82

Date of Issue : 17.09.2004

Subject: Preparation of appraisal report

F. No. 414/69/2004-IT (Inv. I)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

Meeting of Directors General of Income Tax (Inv.) And Chief Commissioners of Income tax (Central) with Hon'ble Finance Minister on 14-09-2004.

Relevant extracts are given below:

Appraisal Report

One of the major causes of the poor image of the Investigation Wing was due to inordinate delays in preparation and forwarding of appraisal reports on the search and seizure operations. These delays occurred inspite of the fact that the Board has laid down a time limit of two months from the date of initiation of a search. It was pointed out that the assesseees were being summoned repeatedly till they submitted to the point of view of the investigation officer. There was also a view that the present time limit of two months was barely sufficient to prepare summary of the report and detailed investigations will not be feasible. After considering both the points of view, it was decided that the report must be forwarded within two months of the initiation of the search. This may lead to the forwarding of two or more reports in a group if warrants are executed at different points of time.

ANNEXURE-82A

Date of Issue : 13.06.2005

Subject : Guidelines for Decentralisation of cases from Central Charges.

F.No.286/68 /2005-IT(Inv.-II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To,

All Chief Commissioners of Income Tax(CCA) and

**All Director Generals of Income Tax(Inv.)/Chief Commissioners of
Income Tax (Central)**

**Subject: Guidelines for decentralization of cases from Central Charges
- reg.**

Sir/Madam,

I am directed to refer to Board's letter F.No.414/46/99-IT(Inv.-I) dated 27.7.1999 and to convey the following guidelines regarding decentralization of cases from Central Charge:

- (i) The case may be decentralized after the decision of the first appeal.
- (ii) In case where the Department or the assessee have filed a second appeal before the ITAT, then a paper book dealing with all issues which are matter of contention before the ITAT by the Department/ Assessee must be prepared by Assessing Officer of the Central Charge and handed over to the succeeding Assessing Officer.
- (iii) The A.O. in the Central Circle before transferring the case should ascertain following seized documents/seized material.
 - (a) The documents and material referred to in the Assessment Order;
 - (b) The documents and other material referred by the assessee with reference to his defence before the A.O;
 - (c) The documents and material referred by the assessee before CIT(Appeal) in his order;
 - (d) The documents referred by the assessee before CIT(Appeal), the list of which is available with the Assessing Officer with reference to the submissions made by the assessee before CIT(Appeal).

The A.O. should segregate the above 4 materials in addition to

the copies of Panchnama, statements recorded in the course of search and retain these referred documents/materials as a part of search material and hand it over to the succeeding A.O.

- (iv) Documents other than the retained referred documents should be returned to the assessee and an undertaking be obtained that these released documents would be produced in subsequent proceedings as and when needed.

Only after completing this work, the A.O. should propose the case for transfer.

- (v) The seized material having bearing on prosecution proceedings should not be released till the completion of such prosecution proceedings and the same should be handed over by the A.O. of the Central Charge to the succeeding A.O. Such seized material must be kept in the personal custody of the A.O.
- (vi) In case where the prosecution has been launched, the A.O. of the Central Charge shall hand also over the following information/documents:
 - (a) the name and present whereabouts of the A.O. who filed the complaint must be kept in dossier;
 - (b) the reasons for launching prosecution, the corroborative evidence and the names and addresses of the witnesses mentioned in the prosecution complaint should be communicated to the succeeding A.O.

The above method shall also be followed where prosecution is contemplated.

- (vii) If, no appeal is pending /likely to be filed, entire documents are to be released.
- (viii) The penalty proceedings u/s 271(1)(C) should be concluded before decentralization.
- (ix) Where an application has been filed before the Settlement Commission u/s 245D(1) of the Income Tax Act, the case shall not be decentralized before receiving order of the Settlement Commission u/s 245D(4) and giving effect to the same. In case a writ petition before the High Court or an SLP before the Supreme Court, has been filed or is contemplated to be filed against this order of the Settlement Commission, the cases should not be decentralized.
- (x) The DGIT(Inv.)/CCIT(Central) are the sole authority to decide whether or not a case should be decentralized. In case of any

serious difference of opinion between the DGIT(Inv.)/CCIT(Central) and the territorial CCIT, regarding correct jurisdiction, the matter may be referred to the Board for its decision U/S 127(2)(b).

- (xi) In cases where proceedings U/S 147 or U/S 263 have been initiated, the case should be decentralized on completion of such proceedings.
- (xii) In the event of death of the assessee or succession by different assessee (by way of amalgamation of the Company or a discontinuation of the business) the case will not be decentralized.
- (xiii) All the cases in Central Circle should be scrutinized as expeditious decentralization process is envisaged in the present case. This is particularly so as the CIT(Appeal) is disposing all the files expeditiously at an early date.
- (xiv) The files may be decentralized in time by passing the orders of decentralization. However, decentralization should be effective only from the second week of April of the next financial year, if the order is passed after 31st May (except in the current financial year 2005-06 when the cases may be decentralized upto 31st July, 2005).
- (xv) While deciding the budget target, the collection made with reference to the files, which are transferred out of the Central Circles, should be taken into consideration for adjustments of the Budget.

Yours faithfully,

Sd/-

(P.K. MISHRA)
Director (Inv. II & III)

ANNEXURE-82B

Date of Issue : 04.07.2007

Subject : Revision of Guidelines for Decentralisation of cases from Central Charges.

F.No.286/68/2005-IT(Inv.II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To,

All Chief Commissioners of Income Tax (CCA),
All Director Generals of Income Tax(Inv.) and
Chief Commissioners of Income Tax (Central).

Subject : Revision of Guidelines for Decentralisation of cases from Central Charges.

Sir,

I am directed to refer to Board's letter F.No. 286/68/2005-IT(Inv. II) dated 13th June, 2005 on Guidelines for Decentralisation of cases from Central Charges.

2. In view of pendency of large number of cases in Central Circles and in order to reduce the time gap between the date of search and the date of assessment, I am directed to inform the following changes in the aforesaid guidelines:

- i. As one time relaxation for the current Financial Year, decentralization of cases can be done upto 31.07.2007.
- ii. After disposal of first appeal, the cases other than scam cases should be decentralized after filing of 2nd appeal by the Department, irrespective of the pendency of penalty proceedings. However, an appropriate note regarding penalty proceedings should be given to the A.O. with whom cases are decentralized.
- iii. Whenever prosecution is contemplated para (vi) of existing guideline will apply. However, a copy of the communication to succeeding A.O. referred to therein, should also be handed to succeeding Addl. CIT, CIT and DDIT/DCIT (Prosecution).

3. The aforesaid changes should be brought to the notice of all the officers of your region.

Yours faithfully,

Sd/-

(AARSI PRASAD)

Under Secretary (Inv. II&III)

ANNEXURE - 83

Date of Issue: 12.08.2005

Subject: Search and seizure actions - Instructions thereto - reg

F.No.286/77/2003-IT(Inv. II)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

CONFIDENTIAL

To

All Directors General of Income Tax (Inv.),

All Chief Commissioners of Income Tax (CCA),

All Chief Commissioners of Income Tax (Central)

Subject : Search and seizure actions - Instructions thereto - reg.

Sir,

In partial modification of Instruction No.7/2003 dated 30th July, 2003, bearing F.No.286/77/2003-IT (Inv. II), it has now been decided that for issuance of a search warrant the contents of para (i) of the Board's earlier instructions issued by F.No.289/10/2001-IT (Inv. II) dated 7th March, 2001 shall be applicable.

Yours faithfully,

Sd/-

(P.K.MISHRA)

Director (Inv. II & III)

ANNEXURE - 84

Date of Issue: 20.12.2005

Subject: Search and Seizure matters relating thereto - reg.

F. No. 286/43/2005-IT(Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

All Director Generals of Income-tax (Inv.)

Subject : Search and Seizure matters relating thereto - reg.

Sir/Madam,

The undersigned is directed to inform you that the concerned Addl. DIT(Inv.)/JDIT (Inv.) who has processed the search case shall within 30 days, of the date on which the warrant was first executed in a case/group of cases, shall in writing inform the concerned CIT, Addl. CIT/JCIT, and the AO under whose jurisdiction the assessee is assessed, about the search action that has taken place. It is requested that this be brought to the notice of all concerned immediately.

Yours faithfully,

Sd./-

Abha Rani Singh

Under Secretary (Inv II/III)

ANNEXURE - 85

Date of Issue : 27.12.2005

Subject: Review of search & seizure cases - reg

F. No. 289/24/2005-IT(Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

SECRET

To

All Director Generals of Income-tax (Inv.)

Subject : Review of search & seizure cases - reg.

Sir/Madam,

The undersigned is directed to refer to convey the directions on the basis of the discussion between the Secretary (Revenue) and MOS (R), as under:-

“That there should be no reluctance or fear, on the part of the Investigation Wing to deal with high profile areas. On the other hand, a few such cases, if properly taken up, would have a strong beneficial revenue effect. This direction may be borne in mind by the Investigation Wing”

The above is brought to your kind notice for information and necessary action.

Yours faithfully,

Sd./-

Abha Rani Singh

Under Secretary (Inv. II/III)

ANNEXURE - 86

Date of Issue: 07.04.2006

***Subject: New Reporting System - Performance of
DGsIT (Inv.) and CCsIT (Central) - Reg***

F. No. 286/67/2006-IT(Inv. II)

New Reporting System - New Reporting System - Performance of DGsIT(Inv) and CCsIT(Central) - Reg.

It has been noticed that monthly reports of performance received from the DGsIT(Inv.)/CCsIT(Central) is not only not uniform, the reports in the earlier prescribed proformas are not being received from all DGsIT(Inv.)/CCsIT(Central) concerned. In fact, it has been noticed that necessary report in respect of the search assessment functions as prescribed by this office letter No.F.No.286/57/2002-IT(Inv. II) dated 3.7.2002 is also not being received from all DGsIT(Inv.)/CCsIT(Central) concerned.

2. Furthermore, the proformas for reports being received from the field formations do not contain the information generally desired by the Parliamentary Committee and requisitions through Parliament Questions. In such cases of requisition, we have been collecting information from the field at short notice as a one time measure. Accordingly, it has been decided that the DGsIT(Inv.)/CCsIT(Central) would now onwards send the following reports:

- (i) The report on search functions, appropriation/release of seized assets and Reward to informers/Department's Officials (Inv. Quarterly Report-I) (Annexure-I)
- (ii) The assessment related functions in respect of the search cases(Inv. Quarterly Report-II) (Annexure-II)

3. It has, therefore, been decided that all the DGsIT(Inv.)/CCsIT(Central) would submit reports in the new format enclosed herewith on a quarterly basis. These quarterly reports must reach the Board by 20th of the month following the quarter for which report is to be sent. The report in respect of the quarter ending 31st March, 2006 should be sent by 25th April, 2006 incorporating data in respect of the entire financial year 2005-06.

4. Further, in order to create a data bank to meet the requirements of Parliament Questions, Parliamentary Committees, VIP references under RTI Act, I am directed to request you to furnish the information/report in the format enclosed at Annexure-III in respect of the Financial Years 2000-01 TO 2004-05, latest by 25th April, 2006. A copy may also be sent on CD.

I am also directed to say that these two quarterly reports should be meticulously sent by the scheduled date. However, the monthly DO's and telex report on search would continue to be sent by the DGIT(Inv.)/CCIT(Central).

For format of **INVESTIGATION QUARTERLY REPORT - I** see Appendix II, Annexure 25.

For format of **INVESTIGATION QUARTERLY REPORT - II** see Appendix II, Annexure 26.

ANNEXURE - 87

Date of Issue: 30.06.2006

Subject: New Reporting System - Reg

F. No. 286/67/2006-IT(Inv. II)

**New Reporting System - Performance of DGIT(Inv) and CCIT(Central),
Review of release of assets seized and Review of Reward to Informants
and Officers and Staff of the Department - Reg.**

It has been noticed that various statistical reports are being sent by the field authorities on monthly/quarterly basis. Since two Quarterly reports, Investigation Report-I & II have already been introduced w.e.f. 31-03-2006, most of these information would be included in the quarterly reports. It is, therefore, decided that only following reports are required to be sent:-

- (i) Monthly D.O/activity reports addressed to the Member (Inv.), without the Statistics on search, survey, grievances and TEPs;
- (ii) Monthly statistical reports to be sent latest by 5th of the following month on,
 - (a) Search and Seizure and Appraisal Reports (as per Proforma-I enclosed) To be sent to Director(Inv. II & III), &
 - (b) On Survey and TEP to be sent to the D.S.(Inv. I)
- (iii) Fortnightly report on detection of illegal payments made to the politicians, Bureaucrats etc, to be sent within 3 days of the end of the fortnight; and
- (iv) Annual Report for summary of S&S to Cabinet, to be sent by 5th April of the following year(as per Proforma -II enclosed).

2. I am further directed to say that the reports called vide Board's letters of even number dated the 7/10th April, 2006(copies enclosed) regarding New Reporting System, Review of release of assets seized and Review of reward to informers and Department's Officers are still awaited from most of the DGsIT(Inv) and CCsIT(Central). It is requested that the same may kindly be sent to the Board immediately, without any further delay, and the quarterly report for the quarter ending 30-06-2006 be sent by 15th July, 2006 positively. **A copy of all reports may also be sent on CD.**

ANNEXURE - 88

Date of Issue: 13.07.2006

***Subject: Clarification on the issue of adjustment of seized cash
against advance tax payable on the request from assessee***

F. No. 286/105/2005-IT(Inv. II)

To

All Director Generals of Income-tax (Inv.)

***Subject: Clarification on the issue of adjustment of seized cash against
advance tax payable on the request from assessee***

A reference was received from DGIT (Inv.) Jaipur requesting for clarification as to whether provisions of law permit application of seized cash against the advance tax liability of the assessee for the year in which search took place.

The matter was considered by the Board and the Board has decided that no clarification is required because provisions of law do not permit application of seized cash against the advance tax liability of the assessee for the year in which search took place.

Yours faithfully

Sd/-

Abha Rani Singh
Under Secretary (Inv.II)

ANNEXURE - 89

Date of Issue : 04.09.2006

***Subject: Dissemination of Information of Public Value
to the Media - regarding***

Dy.No.291/CH-DT/2006

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

**Subject: Dissemination of Information of Public Value to the Media -
Regarding -**

A Media Center has been created in the CBDT to disseminate information of public value to the media. Press Conferences and Press Briefings are proposed to be regularly held towards this purpose by the Spokesperson, CBDT.

2. It is, therefore, desirable that any information of public importance may invariably be sent to the Spokesperson/Media Center, CBDT through e-mail by 3.00 PM every Friday. Any lapse in this regard will be viewed seriously.

3. The e-mail id is *mediacoordinator@incometaxindia.gov.in*

Sd/-

(M.H. Kherawala)

Chairperson, CBDT

ANNEXURE - 90

INSTRUCTION NO. 11 of 2006*Date of Issue: 01.12.2006****Subject: Release of cash deposited in the PD Account***

F. No. 286/138/2006 -IT(Inv. II)

Subject : Release of cash deposited in the PD account

Section 132B of the IT Act lays down the procedure for application and release of assets seized u/s 132 or requisitioned u/s 132A of the IT Act. As per the provisions of clause (i) of Section 132B(1), such assets have to be applied for recovery of any existing liability under the Income-tax Act, the Expenditure Tax Act, the Wealth Tax Act, the Gift Tax Act and the Interest-tax Act and the liability determined on completion of the search and seizure assessment, including any penalty levied or interest payable in connection with such assessment. The balance, if any, remaining after such adjustment, has to be forthwith released to the person from whose custody such asset was seized in accordance with the provisions of Section 132B(3). On such release of money (lying in the PD Account), the Government is also under obligation to pay interest in accordance with the provisions of Section 132B(4).

2. Instances have come to the notice of the Board where cash deposited in the PD Account have not been released to the assessee even after several years of completion of assessment on the ground that the Department has preferred an appeal before the ITA T and higher appellate authorities and/or penalty proceedings, connected with the search and seizure assessment, have been kept in abeyance till the decision of the higher appellate authorities.

3. Instances have also come to notice where the cash deposited in the PD Account was not adjusted against the existing liability and the demand raised in the search and seizure assessment. In such cases, seized cash was not released, even though the demand raised after the search and seizure assessment became Nil or was reduced to an amount which was less than the amount of cash seized after decision of first appellate authority, on the ground that the Department had preferred an appeal before the ITAT and the penalty proceedings were kept in abeyance till the decision of the ITAT. If such adjustment had been made immediately after raising the demand in the assessment, the Department would have issued a refund in the normal course after giving effect to the decision of the first appellate authority.

4. The above scenario has resulted in a situation where seized cash remains in the PD Account for several years after completion of assessment, causing extreme hardship to the persons from whom such

Cash was seized. Further, no interest is paid for the period beyond the date of completion of assessment.

5. In light of the above, it has been decided that cash deposited in P.D. Account be strictly dealt with as under:

- (a) Where an application is made in accordance with first proviso to Section 132B(1)(i) for release of seized cash and the nature and acquisition of such cash is explained to the satisfaction of the Assessing Officer, the seized cash should be released within the time limit provided under that section after adjustment of any existing liability.
- (b) Where seized cash or part thereof was not released under first proviso section 132B(1)(i), the amount lying in PD account should be released within one month of passing the (search and seizure) assessment order after -
 - (i) adjusting the seized cash against any existing liability and the amount of liability determined on completion of the search and seizure assessment; and
 - (ii) in cases where penalty proceedings, connected with such assessment, have been initiated, retaining out of the balance an amount to meet the expected liability on account of the penalty imposable.
- (c) Where assessee is in appeal against the assessment order and the penalty has not been imposed up to the date of the order of the CIT (Appeals), the position regarding the amount lying in the PD Account should be reviewed at the time of giving effect to the order of the CIT (Appeals). Only such amount thereof should be retained which is sufficient to meet the expected amount of penalty imposable on the assessment as revised in appeal effect. The balance should be released within one month from the order under Section 250, after recovery of any existing demand at that time,
- (d) The amount, which was retained after the assessment order or the order of the CIT (Appeals) for the amount of penalty imposable, should be released within one month from passing of the penalty order, after recovery of demand arising out of the penalty order and any other demand existing at that time.
- (e) Where assessment was made before issue of this Instruction and cash in PD account has not yet been dealt with or partly dealt with, all the Assessing Officers should examine such cases and amount lying in the PD Account be released within one month from the date of this Instruction, after adjusting against
 - (i) any existing demand; and

- (ii) expected amount of penalty, if any, imposable on the basis of assessment order [if no appeal has been filed before CIT (Appeals) or the case has not yet been decided by CIT (Appeals)] or assessment order as revised under Section 250 or, as the case may be, under Section 254.

6. It may be noted that any violation in this regard shall be viewed seriously by the Board. All CsIT should review the amounts lying in their PD Accounts and should ensure that no amount in their PD Accounts is retained merely because of the reason that Department is in appeal before the ITAT/HC/SC. Further, the amount to be retained on account of expected penalty demand should not exceed the amount of penalty imposable on the basis of assessment order [if no appeal has been filed before CIT (Appeals) or the case has not yet been decided by the CIT (Appeals)] or assessment order as revised under Section 250 or, as the case may be, under Section 254.

ANNEXURE - 91

Date of Issue: 13.12.2006

Subject : Secret Service expenditure-Instructions regarding

F. No. 6/26/2006-IFU(B&A)

In its draft report on 'Performance audit of the functioning of internal controls', the office of the Director General of Audit, Central Revenue, New Delhi has commented as under:

'An expenditure of Rs. 15 crore (Revenue Department; Rs.1.62 crore; Direct Taxes: Rs.4.52 crore; Indirect taxes; Rs.8.87 crore) was incurred during the years 2003-06 on 'secret services', Which are out of the purview of the audit. The expenditure on secret services is to be monitored by the respective Head of the Office through reports submitted by the officer designated for incurring expenditure on secret services. Test check revealed that expenditure had not been monitored and utilization certificate of secret service expenditure was not sent either to the office of the Accountant General or to the respective Pay and Accounts Offices as required under the Ministry of Finance, Department of Expenditure, standing orders. The department and the two Boards did not thus exercise any control over the expenditure on secret services'.

2. In this connection, it is brought to the notice of all the Budgetary Authorities in the Dept. of Revenue including CBEC & CBDT, that extant orders/instructions require establishing of adequate internal control mechanism by the Controlling Officers so that the spending from the Secret Service Funds are made diligently towards purchase of information, equipment or cultivating intelligence and informer bases etc. The Controlling Officers may allocate the required funds to the spending Officers who may maintain registers to record outgoing for each contingent expenditure within the allocation and also to furnish Utilization Certificate to the PAOs latest by-the 31st August of the following year. The Controlling Officer shall conduct at least one inspection in a year, which will be in the nature of administrative audit.

3. All controlling Officers under the Department of Revenue and CBEC are, therefore, requested to ensure that the spending from the SSF are managed within the Sanctioned Grant and the required procedures and checks are complied with. A confirmation report to the effect that the instructions are being followed may be furnished to the undersigned latest by 31st December, 2006.

4. Any proposal for unavoidable augmentation of funds should be supported by the details of raids, seizures and revenue collections attributable to the spending from the Secret Service Funds as there are restrictive provisions for reappropriation from and to the provisions of Secret Service Fund and augmentation during the course of a financial year are generally not agreed.

5. Pr.C.C.As/C.C.A. (Fin.) are requested to issue necessary directions to all PAOs under their control for watching the receipt of Utilization Certificates.

Sd/-

(M. Deena Dayaia)
Financial Adviser

ANNEXURE - 92

Date of Issue: 22.12.2006

Subject: Search and Seizure Assessments

F. No. 286/161/2006-IT (Inv. II)

Search and Seizure Assessments :

The Board has examined the existing mechanism followed in assessments relating to search and seizure cases and has decided to frame general guidelines which would enable Assessing Officers to enhance the quality of such assessments and bring uniformity in the work relating thereto. The guideline, which is elaborated in the following paragraphs, is aimed at laying down prescribed time bound action at various stages in the assessment proceedings.

1. First Stage: From receipt of Appraisal Report to filing of Return.

1.1 It is necessary in search assessments that the Assessing Officer is acquainted with the appraisal report and the seized material before he takes up the assessments of the case.

1.2 The appraisal report is expected to be received within 60 days of the search. Any delay in receipt of the appraisal report must be brought to the notice of the concerned CIT(Central) by the Assessing Officer who may pursue the case with the DIT(Inv.) concerned. The DDIT(Inv.)/ADIT(Inv.) should hand over the seized material to the Assessing Officer (before whom the cases get centralised) within a week of sending the Appraisal Report.

1.3 On receipt of the appraisal report and seized material, the Assessing Officer and Range Head should jointly scrutinize the appraisal report and seized material and prepare an Examination Note to decide:

- i. Cases where notices u/s 153A of the Income- tax Act, 1961 (the Act) are required to be issued.
- ii. Cases where notices u/s 153C of the Act are required to be issued.
- iii. Cases where notices u/s 148 of the Act are required to be issued.
- iv. Cases where seized material pertains to persons other than those whose cases have been centralised.

1.4 If necessary, confirmation may be obtained from the investigation wing for matching the names of entities as appearing in the warrant of authorisation as against the names appearing in the Panchnama prepared at the time of conclusion of search.

1.5 An *action note*, based on a comprehensive and methodical examination of seized material, in addition to the comments available in the appraisal report, must be prepared within 90 days of receipt of the seized material

(this time limit may be extended where such action note becomes due between September and December of the calendar year due to preoccupation with limitation matters). The action note must cover the gamut of the case and should contain inter alia:

- Proposal for special audit u/s 142(2A) of the Act, if necessary. In cases where special audit u/s 142(2A) is proposed to be resorted to, care must be taken to ensure that the principles laid down in this regard by the Supreme Court in the case of *Rajesh Kumar and Others v. Deputy Commissioner of Income Tax and others* 287 ITR 91 are adhered to;
- Identification of further cases for centralization along with reasons thereof;
- Identification of cases and corresponding assessing officer where documents seized belong to persons whose cases have not been centralised;
- Identification of the third -parties in respect of whom enquiries have to be carried out;
- Report on opening of all hard disks seized and print outs obtained therefrom;
- Identification of evidence including ascertaining of handwriting on loose papers seized and statements recorded u/s 132(4).

1.6 The Assessing Officer should ensure that the assessee has been provided an inspection of the seized material and copies thereof as requested by him. If possible, a certificate in this regard may be obtained from the assessee.

1.7 As far as possible, the assessments should be taken up group-wise to ensure a holistic approach as well as to ensure that no income remains un-assessed due to any confusion or doubt regarding the hands in which it is to be assessed. A copy of this *Action Note* should be sent to the CIT (Central) through the Addl./Joint CIT as part of a compliance report to enable proper supervision by him.

1.8 Statutory notices u/s 153A, 153C or 148 of the Act, as the case may be, should thereafter be issued. Proper satisfaction should be recorded before the issue of notice u/s 153C or u/s 148 as the case may be. Range heads may ensure proper action in this regard. The Assessing Officers must note that satisfaction to be recorded u/s 153C is very different from that recorded u/s 148. Under Section 153C, the satisfaction that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to the person subjected to provisions of sec. 153C is sufficient. Sections 153A & 153C are applicable for six financial years proceeding the year of search. Notice for the year of search is to be issued u/s 143(2)/142(1) of the Act.

1.9 The Assessing Officer should also explore the possibility of invoking the provisions of section 281B of the Act so as to protect the interest of Revenue. This provision is applicable only during the pendency of the proceedings for assessment. After completion of assessment, appropriate action for recovery must be taken.

1.10 Where, in the opinion of the Assessing Officer, any further enquiry by the Investigation Wing is to be carried out in respect of certain third parties, the same should be brought to the knowledge of the CIT (Central), who may, thereafter request the DIT (Inv.) for carrying out such enquiries. The DIT(Inv.) should, thereafter, carry out the necessary enquiries and inform the concerned Assessing officers of these third parties for taking appropriate action. Timelines should be clearly set out for completion of these enquiries.

1.11 Where the Assessing Officer is of the opinion that the case has implications involving enquiry by other agencies, references to such agencies should be made by the Assessing Officer, after seeking the approval of the CIT(Central).

2. Second Stage: After Filing of return

2.1 For any assessment proceeding, it is necessary to identify the evidence that exists on record that would be required for making the additions and then develop the strategy to collect further evidence if required, so that the assessee can be confronted with the same.

2.2 A detailed questionnaire should be prepared mentioning details of the Annexures relating to the seized material and the assessee's explanation sought on the entries therein. The questionnaire should also contain the queries on the basis of documents attached with the return. If considered necessary, directions under section 144A of the Act should be given by the Range head.

2.3 On a scrutiny of the reply furnished by the assessee, an analysis must be made of the submissions, which are:

- a. Prima facie acceptable.
- b. Can be accepted only after proper enquiry.
- c. Not acceptable, in view of material on record/applicable case laws.
- d. In disagreement with the findings mentioned in the Appraisal Report.

2.4 The attempt at this stage should be on marshalling of the facts and putting them in chronological sequence with the primary focus on establishing the preponderance of probability. The Assessing Officer should make diligent efforts to detect the modus operandi and the manner

in which the undisclosed income was generated by the assessee. In case it is found that the seized papers, corroborating the fact of generation of undisclosed income, pertain to the period immediately preceding the search action, then logical conclusion of such activity being carried out by an assessee in the balance period of time, for which no documentary evidence is available, should be reached through investigation and not on presumption or multiplication formula. For this purpose, independent enquiries from banks, other financial institutions, independent parties, Govt. Departments etc. should also be carried out simultaneously.

2.5 The Assessing Officer should mention the explicit *modus operandi* of tax evasion and develop the assessment on the basis of preponderance of probabilities and draw conclusions on the basis of available evidence and facts of the case. The principles laid down by the Supreme Court in the cases of CIT v. Durga Prasad More 82 ITR 540 and Sumati Dayal v. CIT 214 ITR 801 to look into the surrounding circumstances and go behind the motive of the transactions in the light of human probabilities may be referred to.

2.6. Assesseees are increasingly resorting to filing of affidavits to substantiate their claims. The Indian Code of Civil Procedure Order 19 r.1 of the Indian Code reads as follows:

“Any Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party bona fide desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.”

2.7 The Assessing Officer must, therefore, apply his mind before admitting any affidavit on record and should not accept it without verifying the contents thereof. The rejection of the affidavit should be recorded after giving proper reasons and should be intimated to the assessee. If admitted, such affidavits need to be dealt with as per the Supreme Court Judgement in Mehta Parikh and Company v. Commissioner of Income Tax- Bombay, 30 ITR 181 i.e. that the affidavit cannot be disregarded without effectively discrediting the same. Necessary enquiries should be made by invoking the provisions of sections 133(6) and 131 of the Act as applicable.

2.8 Proper opportunity of cross-examination must be given to the assessee if any evidence has been collected behind his back. However, the following principles enunciated by the Supreme Court in this regard may be kept in mind:

- i. The right of cross-examination is not an absolute right (Nath International Sales Vs. UOI, AIR 1992 (Del) 295).
- ii. The right of hearing does not necessarily include right of cross-examination (State of J&K Vs. Bakshi Gulam Mohammad AIR 1967 SC 122).

2.9 If the Assessing Officer is not in agreement with any findings/ conclusions drawn in the Appraisal Report, the matter should be brought to the knowledge of the Range head who should resolve it with the concerned Addl./Joint DIT(lnv). If considered necessary, the CIT(Central) may also resolve the issue with the DIT(lnv.). A proper office note mentioning the issues which have been accepted on the basis of the assessee's reply and evidence furnished during assessment proceedings and which are deviations from the appraisal report must be mentioned in the office note i.e., note not meant for the assessee.

2.10 After receiving the replies of the assessee on the questionnaire issued and after gathering further evidence in the case, instructions may be given by the Range head u/s 144A of the Act, either on his own motion or on a reference made by the Assessing Officer.

2.11 There is an increasing trend amongst assessees to approach the Settlement Commission during the pendency of assessment proceedings. The Assessing Officers may note that assessment proceedings can continue and can be completed till the date of order u/s 245D(1) by the Settlement Commission.

3. Third Stage: Final Show Cause Notice and Assessment Order

3.1 After completion of the enquiries, a final show cause notice should be given to the assessee, following the principles of natural justice, giving him adequate opportunity for furnishing the reply. The legal position with regard to the principle of natural justice have been laid down by the Supreme Court in *Swadeshi Cotton Mills Co. Ltd. v. Union of India* [1981] 1 SSC 664; [1981] 51 Comp Case 210 (SC), (page 712).

3.2 All the issues and evidence that is going to be relied upon in the assessment order should be made available to the assessee. The final show cause notice should be prepared in consultation with the Addl. CIT and should contain:

- i. The proposed structure of the order;
- ii. The evidence in possession of the department;
- iii. The case laws being relied upon;
- iv. The opportunity of rebuttal being provided to the assessee.

3.3 Where reliance is placed by the assessee on a case law, the Assessing Officer should ascertain the question which was before the Court, rather

than relying solely on the ratio of the decision. The binding precedent for this is the Supreme Court decision in *CIT v. Sun Engineering Works Pvt. Ltd.* (198 ITR 297). It has been pointed out that a decision which is not founded on reasons nor on consideration of the issues, cannot be deemed to be a law declared, to have binding effect as is contemplated by Article 141 of the Constitution of India. A summary dismissal by the Supreme Court, without laying down any law, is not a declaration of law envisaged by Article 141 (supra). When reasons are given the decision of the Supreme Court would be binding on all courts within the territory of India: when no reasons are given, dismissal simpliciter is not a declaration of law by the Supreme Court. (*S. Shanmugavel Nadar v. State of Tamil Nadu and Another* 263/TR 658).

3.4 The assessment order should be a speaking one so that even if a layman reads the order, he should be able to understand the issue, the strength of the evidence and should be able to identify the conclusions drawn. The replies of the assessee should be considered and discussed/rebutted with proper evidence and applicable case laws.

3.5 The need for speaking orders cannot be over emphasised. The principles in this regard are laid down in *Commissioner of Police v. Gordhandas Bhanji*, AIR 1952 SC 16, at page 18). As per the Supreme Court, public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the action and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself. The Supreme Court reiterated the law in *Vice Chancellor, Banaras Hindu University v. Shrikant* [2006] 6 Scale 66; AIR 2006 SC 2304, (at page 2314) by stating

“An order passed by a statutory authority, particularly when by reason whereof a citizen of India would be visited with civil or evil consequences must meet the test of reasonableness.”

3.6 The additions should not be based on surmises and conjectures but on evidence collected during search and post search inquiries. The Department does not have a case to make additions on the basis of surmises and conjectures in cases where the assessee has been subjected to the rigours of search. This would also ensure that the fetters put by Rule 46A of the Income Tax Rules, 1962 on the assessee's right to produce additional evidence before the CIT (Appeals) is also effective. In this regard the DIT(Audit) letter no. F. No. RA-9/Gen./99-2000/DIT/dated 20.5.1999 in respect of the mistakes committed by the Assessing Officers

involving under/over assessments may be kept in mind. The Board has also issued instructions no. 21 dated 6.2.1969, no. 71 (F.91/47/69-ITJ (18) dated 5.7.1969 and No. 78. F.50/78/69-IT J (21) dated 11.7.1969 to the effect that a constant and corrective watch may be ensured as the PAC has been repeatedly expressing itself against the observed tendency on the part of the assessing officers to make high pitched assessments. The following typical omissions and commissions, as detailed below, were highlighted:

- i. Assessing Officers make additions to sales or to gross profits or make disallowances out of expenses without giving any reasons or by giving utterly inadequate reasons; such additions are either almost entirely knocked off or substantially reduced.
 - ii. Assessing Officers tinker with remuneration paid to the Directors of the company, applying highly subjective and unrealistic standards of reasonableness.
 - iii. While imposing penalties for non-payment of tax, the Assessing Officers do not care to check up whether they had disposed of petitions moved by the assessee for stay of demand.
 - iv. Assessing Officers levy penalties u/s 271 (1) (c) without caring to make out a convincing case; the assessee's explanation is often not discussed and shown to be unbelievable or false, nor is an attempt made to bring out clearly that the assessee has been guilty of concealment of income.
 - v. Claims for deduction on the LIP are not allowed and that too without giving any reasons.
 - vi. While making the additions for inadequate personal drawings, the Assessing Officers do not care to give an analysis of what the personal expenses of the assessee should be, to justify additions on this score.
 - vii. In dealing with bad debts, the Assessing Officers adopt unrealistic approach even when the amounts are comparatively small and the claim does not appear to be suspicious or *mala fide*.
- 3.7 The assessment order must necessarily contain the following:
- i. (a) The facts regarding initiation of search in cases covered u/s 153A of the Act, or
 - (b) Details of seized material belonging to other persons and recording of satisfaction in the cases falling u/s 153C of the Act, as the case may be, must duly be recorded in the assessment order.
 - ii. Factum of issuance and service of notice u/s 143(2) along with dates must be recorded in the assessment order.

- iii. Clear reference should be given to the seized material such as annexure nos., premises where the documents were seized, etc. If such material is of vital importance, its copies should be made part of the assessment order by including it as an annexure or scanned into the body of the assessment order.
- iv. Proper mentioning of charging of interest under various sections of the Act.

3.8 The recording of satisfaction of 'concealment' is a must for initiation of penalty proceedings. The assumption of jurisdiction to initiate penalty proceeding is only after satisfaction regarding concealment is arrived at during the course of assessment proceedings. This satisfaction, therefore, must be brought out clearly in the assessment order. This would help counter the view that merely because the penalty proceedings have been initiated, it cannot be assumed that such a satisfaction was arrived at, in the absence of the same being spelt out by the order of the assessing authority (CIT v. Ram Commercial Enterprises Ltd. 246 ITR 568). This would also help identify the concealed income in the assessment order itself. Satisfaction must be similarly recorded for other penalty proceedings.

3.9 If any statutory approval has been obtained by the AO, the same should be indicated in the main body of the order. The AO should also ensure that at the final stage of computation of income, all the issues mentioned in the assessment order are covered in the computation.

3.10 It would be advisable for the AO to consult his higher authorities while making large additions.

4. Post Assessment Action

4.1 Cases with potential prosecution angle should be identified. While prosecution for technical matters should be launched as early as possible, in cases of concealment of income, proper watch may be kept on progress of appellate proceedings and prosecution should be launched at the earliest possible. It may be noted that prosecution proceedings can be launched even before the finalisation of the assessment proceedings and can be taken up independently of the assessment proceedings. Even if the group cases qualify for decentralisation as per present guidelines, cases having prosecution potential should be identified separately, and excluded from the proposed list for decentralisation giving clear reasons for the same.

4.2 A paper book containing copy of the seized material, in addition to that annexed to or scanned into the assessment order, relied upon by the Assessing Officer, should also be prepared along with the passing of assessment order for submission to appellate authorities/ITAT where it

is apprehended that the assessee will go in appeal or to the Settlement Commission. This exercise also helps in identification of the seized material which can be released to the assessee.

4.3 On completion of assessment proceedings, immediate action should be taken for retention of books, as per law, where considered necessary. Books of accounts not used in assessment and having no investigation ramification can be considered for release with the approval of the CIT. While sending recommendations for release of books/documents the following must be ensured:

- i. Audit (Internal & Revenue) of the cases are completed.
- ii. No action u/s 263/145/154 is pending.
- iii. No set aside assessment is pending. .
- iv. No external agency like CBI/ED/DRI etc. has requisitioned the seized material. If there is a likelihood of such requisition in future, it must be indicated whether a reference has been made to them.
- v. Prosecution has not been launched nor is it proposed.

4.4 Often seized assets are released against a bank guarantee furnished by the assessee. The bank guarantee has limited validity and needs to be renewed from time to time. A register should be maintained for the purpose, indicating the validity of the bank guarantee, to ensure proper renewal.

4.5 Cash deposited in the PD Account should be applied and adjusted in accordance with Board's Instruction No. 11/2006 dated 1.12.2006.

4.6 A register has been prescribed in the Manual of Office Procedure, Volume-II, (Technical) issued by the Directorate of Income Tax (O&MS) in 2003 at page 40 indicating the report and registers that are required to be sent to or maintained by the Range Heads. This register is to be maintained in all Central charges. In view of the changes in the Act, a revised format is given as 'Annexure-1'.

5. The DGsIT(Inv.)/CCsIT(Central) should hold seminars at the beginning of the calendar year for orienting the Assessing Officers with the guidelines and also to discuss various issues relating to search and seizure assessments.

6. These guidelines may be brought to the notice of all Commissioners of Income Tax, Range Heads and Assessing Officers handling assessments of search and seizure cases.

Annexure A-1

1. Range Addl./JCIT should also maintain a register for each search & seizure case incorporating the following details:

Name of the assessee	Date of initiation and completion of search	Whether case covered by Section 153A/153C/148	Seizure made with break up	Disclosure, if any, u/s 132(4)	Date of passing orders for centralisation
(1)	(2)	(3)	(4)	(5)	(6)

Date of receipt of Appraisal Report	Date of receipt of seized records including copies of warrants	Date of application, if any, received for inspection and date on which inspection actually allowed.	Date of issue of notice u/s 153/153C/148	Date of filing of return for assessment	Income disclosed in return
(7)	(8)	(9)	(10)	(11)	(12)

Details of tax paid on income disclosed in return	Adjustment from P.D. accounts, if any, against tax on income disclosed in return	Date of Bank guarantee, if any, date of expiry and date of renewal thereof	Date of application, if any, from the assessee making a claim that seized assets or part thereof are explained.	Details and date of decision on (16) above	Date of first notice to take up assessment proceedings and also details of subsequent notices/questionnaire/hearing, etc.
(13)	(14)	(15)	(16)	(17)	(18)

Date(s) of hearing before Addl. CIT/ Joint CIT before issue of directions u/s 144A, wherever resorted to.	Assessed income with date of order	Tax liability on assessed income	Details of adjustment from P.D. account, after completion of assessment with date	Whether penalty has been initiated and details of penalty, if any, levied.	Whether case processed for launching prosecution and details of prosecution, if any, launched.
(19)	(20)	(21)	(22)	(23)	(24)

CIT and DGIT/CCIT should inspect this register every three months / six months and record their comments therein.

ANNEXURE - 93

Date of Issue: 22.03.2007

Subject: Transmission of Fax reports and search operations

From : Director (Inv. II & III)

Subject : Transmission of Fax Reports on Search Operations

I am directed to request you to adopt henceforth, the following procedure in transmitting the Fax Reports on search operations addressed to Member (Investigation):

S. No.	Report	To be faxed to	Fax Number
(i)	2 Hourly Report on commencement of search	Member (Inv.)	23093340
(ii)	Fax Report on conclusion of Main Search Operation	Member (Inv.)	23093340
(iii)	All subsequent Fax Reports i.e. on opening of Lockers or sealed premises etc.	CIT (Inv), C.B.D.T	23092177

On the top of the Reports, there should be bold headings like **“TWO HOURLY REPORT”, “MAIN FAX REPORT”, “OPENING OF LOCKER/SEALED PREMISES”** etc. as would be relevant.

- Sd -

Director (Inv. II & III)

ANNEXURE - 94

Date of Issue: 28.03.2007

Subject: Two hourly report

From : Director (Inv. II & III)

Subject: Two Hourly Report

When main search operation commences, a report regarding commencement should reach the Member (Inv.) within two hours. But, it is noticed that this practice is not being followed scrupulously by many Directorates.

Member desires that the Two Hourly Report should invariably be faxed within the stipulated time in the enclosed format. (Post copy need not be sent).

For proforma of this report, refer to Appendix II, Annexure 19.

Sd/-

Director (Inv. II & III)

ANNEXURE - 95

Date of Issue : 04.04.2007

***Subject: Monthly Report on Surveys carried out by the
Income tax Department - Reg.***

F. No. 414/3/2005-IT(Inv. I)

**Monthly Report on Surveys carried out by the Income Tax Department-
Reg.**

The undersigned in directed to refer to the above subject and to state that from April, 2007 onwards, a Monthly Report on surveys carried out under your jurisdiction should be submitted to Member (Inv), C.B.D.T, in the following Format:-

PART A: Statistical report on Surveys u/s 133-A(1)

No. of Surveys u/s 133-A(1) carried out during the month	Amount of undisclosed income detected during survey (Rs. in lakhs)

PART B: Qualitative Report* on Surveys u/s 133-A(1)

S. No.	Name of the case	Date of Survey	Amount of Undisclosed Income detected (Rs. in lakh)	Nature of concealment detected (Rs. in lakh)
1				
2				

* For cases in which detection of undisclosed income during survey is Rs.2 Crore and above (in cases of Metros) and Rs.50 lakhs and above (in cases of other stations)

PART C: Report on Surveys u/s 133-A(1) and other enquiries on expenditure on social occasions like marriages, parties etc.

S. No.	Name of the case	Date of Event	Amount of Expenditure admitted (Rs. in lakh)	Amount of Expenditure estimated on enquiry (Rs. in lakh)
1				
2				

Report in the above format should be sent to the Board on or before 7th of every month. For Financial Year 2006-07, a consolidated report for the whole year, as in Parts A & C above, should be sent to the Board by 20th April, 2007.

ANNEXURE - 96

Date of Issue: **** April 2007

Subject: Revision of Guidelines (Reward to officers and Staff of Income tax Department) in respect of block returns when appeals are pending and reward is claimed by the officers and staff on admitted income

F.No. 287/39/2005-IT(Inv. II) B&A
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

To

All Directors General of Income Tax (Inv.)

And

All Chief Commissioners of Income Tax

Sir,

Sub: Revision of Guidelines (Reward to officers and Staff of Income tax Department) in respect of block returns when appeals are pending and reward is claimed by the officers and staff on admitted income.

As per the existing guidelines of Reward to officers and staff of Income Tax Department was issued vide F.No.414/10/83-IT(Inv.) Dated 6.11.1983 final reward is payable only after the order of Income Tax Appellate Tribunal has received. During the operation of these guidelines, a clarification was issued vide F.No.287/4/2002-IT(Inv. II) dated 31st July, 2006 regarding submission of the reward proposal after completion of Assessment proceedings. Suggestions have been received that in case of Assessments u/s 158BC/158BD relating to block period reward should be given on the income declared in the return filed u/s 158BC/158BD, as the taxes paid on such income cannot be refunded, although appeals are still pending against the additions made by Assessing Officer in such cases. Further, income shown in these returns includes undisclosed income on which there would be no dispute.

2. In view of this, after careful consideration by Central Board of Direct Taxes, the following clarification is hereby issued, by inserting sub-clause (iv) to clause 4(b) of existing Guideline issued vide F.No.414/10/03-IT (Inv.) Dated 6.11.1985 :-

“(iv) when consequent upon a search under section 132 an assessment or reassessment has been made under section 158BC of section 158BD, the final reward at the request of processing unit of search, may, notwithstanding anything mentioned in clause (ii) or (iii), be granted after completion of the

assessment or reassessment on the basis of undisclosed income declared in the return filed u/s 158BC/158BD for the block period, provided that-

- (a) the tax on such income has been paid;*
- (b) the quantum of income declared in the return u/s 158BC/158BD is not disputed in appeal filed, if any;*
- (c) no application has been made to the Settlement Commission; and*
- (d) the processing unit furnishes as undertaking to the effect that no further claim of reward shall be made on the income over and above such income, declared in the return u/s 158BC/158BD.*
- (e) One year has passed from the date of relevant assessment order u/s 158BC or 158BD."*

3. The modified proforma to be used for this purpose is enclosed herewith.

4. You are accordingly requested to inform all concerned.

Yours faithfully,

Sd/-
(Abha Rani Singh)
JCIT, OSD, (Inv.II & III)
Central Board of Direct Taxes

Particulars for the purpose of Reward to Official in Search and Seizure case

1	Name of the assessee	
2	Date of search	
3	Whether case pertains to Rule No. 2(b) (Scrutiny)/2(c) (Final) of 1985 Revenue Guidelines	
4	If under Rule 2(c), the total amount of seizure :	
5	Deemed seizure (if any)	
6	Whether Metro charge or Non-metro charge	
7	Whether informant based or suo motto	
8	If informant based, amount of reward paid, if any.	
9	Admitted concealed income as per return(s) of income	
10	a) Assessed income b) Whether one year has passed from the date of Assessment order	

11	<p>a) Whether any appeal is filed against the concealed income, admitted in the return filed consequent to search. If so, mention the amount of concealed income and disputed in appeal.</p> <p>b) Whether any appeal is filed against the additions to income made by AO. If so, the amount of additions to income not disputed in appeal.</p>	
12	If no appeal is filed, whether the time for the first appeal was lapsed.	
13	If appeal(s) is/are finalised, the Additional income brought to tax.	
14	Tax payable	
15	Tax paid and proof thereof	
16	The amount on which reward is being claimed	
17	Reward proposed by DIT/DGIT(Inv.)	
18	Officers who are involved in processing the case and their basic pay.	
19	List of Addl. Directors/JDs/DDs/ADs/ITIs of Investigation Wing.	
20	List of Staff Members of Investigation Wing	
21	List of Search parties involved in the search action	
22	Comments offered by DGIT(Inv.) in respect of the ingenuity shown by the officers/staff of the Processing Unit.	
23	Whether Special Reward is proposed to any particular officer/staff, with justification.	
24	Undertaking by officers and staff of Processing Team that this is final reward claim.	

ANNEXURE - 97

Interim Reward

Guidelines issued in	1964	1970	1973	1980	1983	1987
Applicable to information given on or after	7.11.1964	1.7.1970	1.7.1973	1.01.1980	1.10.1983	1.12.1987
Before completion of assessments	Up to Rs. 25,000/-	5% of extra tax due, without monetary ceiling	5% of extra tax due, subject to a ceiling of Rs. 12,500/-	5% of extra tax due, subject to a ceiling of Rs. 25,000/-	5% of extra tax due, subject to a ceiling of Rs. 50,000/-	The interim reward shall not exceed 5% of extra tax due or Rs. 75,000/- whichever is less. However this limit is not applicable if information helps detect undisclosed assets of more than Rs. 30 lacs.
Where search leads to discovery/seizure of, prima facie, unaccounted money	1% of money if seizure is Rs. 2,00,000/- or more	2.5% of money without ceiling	2.5% of money subject to a ceiling of Rs. 12,500/-	2.5% of money subject to a ceiling of Rs. 25,000/-	2.5% of money subject to a ceiling of Rs. 50,000/-	

Where specific information is given for valuables and search leads to discovery/ seizure of, prima facie unaccounted assets	-	-	2.5% of assets without monetary ceiling	2.5% of assets without monetary ceiling	2.5% of assets without monetary ceiling
After completion of assessment on satisfaction that assessment will be sustained in appeal and taxes will be recovered	5% of extra tax due, without monetary ceiling	5% of extra tax due, without monetary ceiling	5% of extra tax due, subject to a ceiling of Rs. 12,500/-	5% of extra tax due, subject to a ceiling of Rs. 25,000/-	5% of extra tax due, subject to a ceiling of Rs. 50,000/-

Sanction for interim reward to an informant can only be sanctioned if the competent authority is satisfied that,

- (a) information is likely to lead to substantial gain to revenue,
- (b) assessment made / likely to be made is likely to be sustained in appeal, and
- (c) the taxes assessed /to be assessed are likely to be recovered.

Final Reward - Limits

Guidelines issued in	1964	1970	1973	1980	1983	1987
Applicable to information given on or after	7.11.1964	1.7.1970	1.7.1973	1.01.1980	1.10.1983	1.12.1987

For information about concealment of income/wealth etc.	Between 7.5% to 10% of extra tax realised	Not exceeding 10% of extra tax and 5% of penalties realised	10% of extra tax realised subject to a ceiling of Rs.25,000/- except where information directly leads to detection of undisclosed assets	10% of extra tax realised subject to a ceiling of Rs.1,00,000/- except where information directly leads to detection of undisclosed assets	10% of extra tax realised subject to a ceiling of Rs.2,00,000/- except where information directly leads to detection of undisclosed assets	Not to exceed of extra income tax, wealth tax, gift tax, estate duty levied and actually realised or Rs.3,00,000/- whichever is less
For recovery of taxes	- do -	5% of tax realised	10% of tax, interest, penalty realised without ceiling	10% of tax, interest, penalty realised subject to a ceiling of Rs. 1 lac.	10% of tax, interest, penalty realised subject to a ceiling of Rs. 2 lacs.	10% of tax, interest, penalty recovered or Rs.3 lacs whichever is less. However this limit is not applicable if information helps detect undisclosed assets of more than Rs.30 lacs.

MONETARY LIMITS FOR VARIOUS AUTHORITIES

Guidelines issued in	1964	1970	1973	1980	1983	1987
Applicable to information given on or after	7.11.1964	1.7.1970	1.7.1973	1.01.1980	1.10.1983	1.12.1987
To be given by CIT / DIT:	Reward up to Rs. 1,00,000/- Where is in excess of Rs. 1,00,000/- but not exceeding Rs.2,00,000/-, the approval of a committee comprising DGIT (Inv.) of concerned zone and two IT authorities not below the rank of CIT nominated by DGIT (Inv.) is necessary. Where reward is in excess of Rs. 2,00,000/-, with the approval of committee comprising Member (Inv.) Of CBDT and two IT authorities not below the rank of CIT nominated by Member (Inv.) is necessary.					

ANNEXURE - 98**Information to be collected from newspaper reports
and publications, etc.**

[Extracts from Office Procedure Manual]

1. The Directorate of Income Tax (Investigation) should collect and compile such information as may be relevant to the proceedings under the direct taxes laws, appearing in news papers and other publications, like techno-economic surveys and reports of working groups and committees, etc.
2. In places where the Director of Income Tax (Investigation) is located, compilation of information from newspapers, etc. should be done by his office on a regular and day-to-day basis. In places where there is no Director of Income Tax (Investigation) but only officers of his Directorate, such compilation should be made in the office of the senior most such officers. In places where the Directorate of Income Tax (Investigation) does not have any office, such compilation should be made in the office of the senior most Income-tax authority, posted at that place. In places where neither any officer of the Directorate of Income Tax (Investigation) nor any other income-tax authority has an office, the officer of the Directorate of Income Tax (Investigation) holding jurisdiction over that area should compile such information. This arrangement is necessary as newspapers some times carry reports, which appear only in their local or regional editions and may in the normal course not reach the office of the Director of Income Tax (Investigation).
3. Where information, based on newspaper or other reports, is compiled by an office, other than the Director of Income Tax (Investigation), the same should be forwarded to the Director of Income Tax (Investigation) through the Joint/Additional Director of Income Tax (Investigation), along with relevant photo copies of the information. The forwarding authority should also give his comments on the matter. He should also report about the action taken in cases in accordance with the law.
4. The information collected should be processed and suitable investigations carried out. Where on the basis of such processing and investigations, a further follow-up action is required to be taken by the Directorate of Income Tax (Investigation) (For example, action u/s 132A) the same should be taken in accordance with the law. Wherever it is found that the information may be useful for, or relevant to, the proceeding under direct tax laws in any case or group of cases, it should be passed on to the jurisdictional Commissioner, with a copy to the range Additional/Joint Commissioner of Income Tax. Similarly, information about the statements and allegations made in the Parliament or the State Assemblies should also be compiled and processed and the relevant information passed on to the jurisdictional Commissioner, with a copy to the range Additional/Joint Commissioner of Income Tax.

{Extracts from Office Procedure Manual Volume III, (Edition 2003) - paragraphs 10.1 to 10.4 of Chapter 4}

ANNEXURE - 99

Date of Issue: 30.05.2007

Subject: Revised Guidelines for sanction of Reward to officers and staff of the Income-tax Department - reg.

F. No. 287/79/2005-IT (Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

All Chief Commissioners of Income Tax

All Directors General of Income Tax

Sir/Madam

Sub: Revised Guidelines for sanction of Reward to officers and staff of the Income-tax Department - reg.

The Board has considered the existing scheme of reward to officers and staff of the Income-tax Department and has revised the existing Guideline for grant of such rewards, which is elaborated as under.

1 Reward to Assessing Officers for Scrutiny Assessments u/s 143/147 of the IT Act (other than those covered under paras 2 and 3 below)

1.1 Assessments u/s 143(3)/147 are made by Assessing Officers of the rank of Deputy/Assistant Commissioners of Income Tax and Income Tax Officers. In some stations, assessments are also made by the Additional/Joint Commissioners of Income tax. Quality assessments, both on factual and legal issues, not only raise the efficiency level for effective tax administration, but also act as a deterrent for tax evasion, thereby raising the cost of such evasion. Accordingly, it is considered necessary to recognise the efforts of such Assessing Officers who, through investigative skills, hard work and dedication, make substantial additions in the course of assessment proceedings which stand the test of appeal and generate additional revenue for the Government. It has, accordingly, been decided that cases in which substantial additions in assessments u/s 143(3)/147 of the IT Act have been made, would be eligible for reward under the following conditions:

- (i) The addition is based on original enquiry/investigation carried out by the Assessing Officer and is not based merely on the additions made on similar issues in earlier assessment years without any additional input/investigation.
- (ii) Where additions are made on the basis of information/report/order received from any other authority, including Tax Evasion Petitions received from various sources, to qualify for reward,

the additions should have been made after further enquiry/ investigation by the Assessing Officer, and not merely on the basis of the information/report/order so received.

- (iii) The addition made is not in consequence of or to give effect to an order of the Supreme Court or a High Court in any other case or to give effect to any retrospective amendment of law.
- (iv) The addition(s) referred to in clause (i) and (ii) is/are sustained, whether totally or partially, in the appellate proceedings or revisionary proceedings.
- (v) Tax on the additions sustained at the appellate stages and/or due to revisionary proceedings has been collected.
- (vi) The additions do not result only in reduction of losses; and
- (vii) The minimum tax effect of the additions referred to in clauses (i) and (ii) in a particular assessment year is as under:

Sr. No.	City where the case has been assessed	Corporate cases (in Rs lakh)	Non-corporate cases (in Rs lakh)
1	Delhi and Mumbai	60	40
2	Ahmadabad, Bangalore, Chennai, Hyderabad, Kolkata and Pune	45	30
3	Other cities	30	20

1.2 The Assessing Unit would be eligible for reward in respect of the cases fulfilling the conditions referred to in para 1.1 above, up to 2% of the tax collected, subject to an overall limit of Rs 50 lakhs and the ceilings prescribed in para 5.2 below. The internal distribution of reward within the Assessing Unit would be as under:

- (i) Assessing Officer : 80%
- (ii) ITIs : 15%
- (iii) Officials below ITI : 5%

1.3 In situations where levels at (ii) or (iii) above have not made any contribution in the case, no reward shall be granted to them. The Additional/Joint CIT (Range Head) shall also be eligible for reward, but only in respect of the qualifying cases in which directions u/s 144A of the IT Act have been given by him specifically on the issues referred to in para 1.1 and has also made significant contribution in the process of investigation and quality of order. In such cases, the Additional/Joint CIT (Range Head) would be eligible for reward up to 30% while the Assessing Officer's share would be 50%.

1.4 The above guideline shall apply in respect of assessments made

u/s 143(3)/147 in financial year 2006-07 and subsequent years. All earlier cases will be dealt by the Reward Guidelines of 1985. However, the Committee competent to grant reward in such earlier cases would be that specified in Para 5 below.

2 Reward for Search and Seizure operations/assessments

2.1 For search and seizure cases, (a) the team processing the search and seizure operation, (b) the teams participating in the search and seizure action; and (c) the assessment unit doing the search and seizure assessment, would be eligible for reward. The basis for reward in Search and Seizure cases would be the 'Group' in respect of which the search and seizure action and survey action (carried out along with the search) is undertaken and by combining all the assessment years of that Group covered u/s 153A/153C of the IT Act, including the Assessment Year pertaining to the year in which search was carried out. The Reward proposal for the Group shall be processed and decided simultaneously for all the three teams - the processing team, the team participating in the search action, and the Assessment Unit.

2.2 For searches carried out on or before 31st May 2003, the Reward would be governed by the Reward Guidelines of 1985. However, the Committee competent to grant such Rewards would be that specified in para 5 below.

2.3 For searches carried out after 31st May 2003, Reward would be governed by the following conditions:

- (i) The minimum tax collected on the undisclosed income detected as a result of search and seizure operation and assessed to tax in the assessments referred to in para 2.1 above should be as under.

S. No.	DIT (Inv.) conducting the search	Tax collected (in Rs lakh)
1	Delhi and Mumbai	150
2	Ahmedabad, Bangalore, Chennai, Hyderabad, Pune and Kolkata	100
3	Others	75

- (ii) The total amount eligible for reward in a Group of cases would be upto 5% of the tax collected on the undisclosed income detected as a result of search and seizure operation and assessed to tax in the assessments referred to in para 2.1, subject to an overall limit of Rs. 50 lakhs.
- (iii) The amount on which such tax is collected has achieved finality in the appellate and/or revisionary proceedings.

2.4 The ratio of distribution of reward so sanctioned would be 40% to the team processing the search, 30% to the search teams and 30% to the Assessing Unit which has completed the assessments referred to in para 2.1, subject to the monetary ceiling mentioned in para 5.2 below. The Reward proposal for the Group shall be processed and decided simultaneously for all the three teams - the processing team, the teams participating in the search action, and the Assessment Unit. However, if an officer/official is incidentally part of two or more teams, he would be eligible for reward from only one of the teams. The internal distribution of reward within the processing team and the search teams would be as under :

Rank	Processing team (%)	Search teams (%)
Additional/Joint CIT	40	-
DCIT/ACIT	30	40
ITO	15	25
ITIs	10	20
Officials below ITI	5	15

2.5 In case one or more levels was not involved in processing the search case or was not present in the search teams, no reward shall be given to such levels. The ratios for the other levels would, however, remain unchanged.

2.6 Reward to the Assessing Unit shall be distributed in accordance with the ratio and principles laid down in para 1.2 and 1.3 above. However, before granting reward to the Assessment Unit, the Committee should examine the original/special contribution made by the Assessing Officer and his team. After such examination, the Committee can consider reducing the ratio of the Assessment Unit and decide the quantum of reward accordingly. Further, the admissibility of reward to the jurisdictional Addl./Joint Commissioner of Income Tax, under whom the assessment is made, should be examined by the Committee, having regard to his special contribution made in such cases and thereafter the Committee can decide upon the percentage, otherwise earmarked for the Assessing Officer, which can be disbursed to the jurisdictional Addl./Joint Commissioner of Income Tax, subject to a maximum of 30%.

2.7 Rewards in respect of cases admitted before the Settlement Commission would be granted only to the processing team and the search teams, subject to the conditions referred to in para 2.3 and 2.4., after the order u/s 245D(4) is passed and taxes paid thereon. However, where the search and seizure assessment orders, referred to in para 2.1,

are admitted before the Settlement Commission, the Assessment Unit would also be eligible for reward

3 Reward for undertaking Surveys u/s 133A of the IT Act

3.1 Surveys carried out u/s 133A of the IT Act have been serving as an important instrument to detect tax evasion. It has accordingly been decided that officers and officials who have carried out surveys u/s 133A of the IT Act and who have completed the assessments of such cases would be eligible for reward as under:

- (i) Minimum tax collected on the undisclosed income detected as a result of the survey in a Group of cases should be as under:
 - (a) For cases of Delhi and Mumbai - Rs. 100 lakhs
 - (b) For Ahmedabad, Bangalore, Chennai, Hyderabad, Kolkata and Pune - Rs. 75 lakhs.
 - (c) Other places - Rs. 50 lakhs.
- (ii) Assessment u/s 143(3)/147 under the IT Act for the relevant assessment years should have been completed and the undisclosed income, determined at the time of survey, should have been charged to tax.
- (iii) Tax on the undisclosed income detected has been paid.
- (iv) The undisclosed income detected during the course of survey and assessed to tax has achieved finality in the appellate proceedings and/or revisionary proceedings.

3.2 The total amount eligible for reward in a group of cases would be up to 5% of the total tax collected on the undisclosed income detected and assessed as a result of the survey in the Group, subject to an overall limit of Rs 50 lakh. The ratio of distribution of reward so sanctioned would be 40% to the team processing the survey, 30% to the survey teams and 30% to the Assessing Unit which has completed the assessments referred to in clause (ii) to para 3.1, subject to the monetary ceilings mentioned in para 5.2 below. However, if an officer/official is incidentally part of two or more teams, he would be eligible for reward from only one of the teams. The internal distribution within the processing team and the survey teams would be as under:

Rank	Processing team (%)	Survey teams (%)
Additional/Joint CIT	40	-
DCIT/ACIT/ITO	30	45
ITIs	20	35
Officials below ITI	10	20

3.3 Reward to the Assessing Unit of 30% shall be distributed in accordance with the ratio and principles laid down in para 1.2 and 1.3 above. However, before granting reward to the Assessment Unit, the Committee should examine the original/special contribution made by the Assessing Officer and his team. After such examination, the Committee can consider reducing the ratio of the Assessment Unit and decide the quantum of reward accordingly. Further, the admissibility of reward to the jurisdictional Addl./Joint Commissioner of Income Tax, under whom the assessment is made, should be examined by the Committee, having regard to his special contribution made in such cases and thereafter the Committee can decide upon the percentage, otherwise earmarked for the Assessing Officer, which can be disbursed to the jurisdictional Addl./Joint Commissioner of Income Tax, subject to a maximum of 30%.

3.4 For Surveys u/s 133 A carried out by the Investigation wing (other than those carried out along with the search and seizure action), the eligibility criterion and other conditions as mentioned in paras 3.1 to 3.3 above would apply.

3.5 Rewards in respect of cases admitted before the Settlement Commission would be granted only to the processing team and the survey teams, subject to the conditions referred to in para 3.1 and 3.2., after the order u/s 245D(4) is passed and taxes paid thereon. However, where the assessment orders, referred to in para 3.1, are admitted before the Settlement Commission, the Assessment Unit would also be eligible for reward

3.6 These guidelines shall apply to all surveys u/s 133A carried out on or after 1st April 2006.

4 Reward for best cases in Tribunal

4.1 Additional/Joint CIT(DR) would be eligible for reward for outstanding representation made before the Tribunal leading to the upholding of the Department's case by the Tribunal. To be eligible for reward, the minimum tax effect of the amount upheld by the Tribunal should be as per the limits mentioned in clause (vii) of para 1.1. The amount eligible for reward would be up to 1% of the tax effect on the income upheld by the Tribunal, subject to the monetary ceiling mentioned in para 5.2 below. However, the Reward to the Departmental Representatives would be admissible only in cases where special contribution has been made by them, which has to be certified by the CCIT sending the proposal.

4.2 This Guideline shall apply to all cases represented before the Tribunal on or after 1st April, 2006. For the earlier period, the Reward Guidelines,

1985 shall apply. However, the Committee competent to grant Rewards for the earlier period would be that specified in para 5 below.

5 Committee for Sanctioning Reward

5.1 It has been decided that with effect from 1st May, 2007, and subject to para 7.1 below, all cases of Reward to officers/officials shall be decided by Committees consisting of senior officers of the Income Tax Department as under, which shall receive the Reward proposals from the DGIT/CCIT concerned in the check lists as per **Annexure A to D** enclosed.

S. No.	Nature of Reward proposal	Committee consisting of	Reward case to be processed in the office of
1.	Scrutiny cases (in respect of cases mentioned in para 1), other than those assessed in Central Charges	(i) Cadre Controlling Chief Commissioner (Chairman); (ii) the Director General of Income Tax (Inv.); and (iii) Chief Commissioner under whose jurisdiction the case is assessed or (if the Cadre Controlling Chief Commissioner is also the jurisdictional Chief Commissioner of Income Tax) a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner. Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	Jurisdictional Cadre Controlling Chief Commissioner of Income Tax.
2	Scrutiny cases in Central Charges (in respect of cases mentioned in para 1)	(i) Director General of Income Tax (Investigation) (Chairman); (ii) Cadre Controlling Chief Commissioner of Income Tax; and (iii) in case of Delhi and Mumbai, the Chief Commissioner of Income Tax (Central) or, in case of other Regions, a Chief Commissioner of that	Jurisdictional Director General of Income Tax (Investigation) or, in case of Delhi and Mumbai,

		<p>Region as nominated by the Cadre Controlling Chief Commissioner of Income Tax. Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.</p>	the Chief Commissioner of Income Tax (Central).
3.	Search and Seizure cases (in respect of cases mentioned in para 2)	<p>(i) Director General of Income Tax (Investigation) (Chairman);</p> <p>(ii) Cadre Controlling Chief Commissioner of Income Tax; and</p> <p>(iii) In case of Delhi and Mumbai, the Chief Commissioner of Income Tax (Central) while for other cities, a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner of Income Tax. Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.</p>	Jurisdictional Director General of Income Tax (Investigation).
4.	Surveys carried out by Commissioners (in respect of cases mentioned in para 3)	<p>(i) Cadre Controlling Chief Commissioner (Chairman);</p> <p>(ii) the Director General of Income Tax (Inv.); and</p> <p>(iii) Chief Commissioner under whose jurisdiction the case is assessed or a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner (if the Cadre Controlling Chief Commissioner is also the jurisdictional Chief Commissio-</p>	Jurisdictional Cadre Controlling Chief Commissioner of Income Tax.

		ner of Income Tax). Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	
5.	Surveys carried out by Investigation wing (in respect of cases mentioned in para 3)	<ul style="list-style-type: none"> (i) Director General of Income Tax (Investigation) (Chairman); (ii) Cadre Controlling Chief Commissioner of Income Tax; and (iii) the Chief Commissioner of Income Tax under whose jurisdiction the case is assessed, or a Chief Commissioner of that Region as nominated by the Cadre controlling Chief Commissioner of Income Tax (if the Cadre Controlling Chief Commissioner/DGIT(Inv.) is also the jurisdictional Chief Commissioner of Income Tax). Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail. 	Jurisdictional Director General of Income Tax (Investigation) concerned.
6.	Best cases in Tribunal (in respect of cases mentioned in para 4)	<ul style="list-style-type: none"> (i) Cadre Controlling Chief Commissioner (Chairman); (ii) the Director General of Income Tax (Inv.); and (iii) Chief Commissioner under whose jurisdiction the Departmental Representative is working or a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner (if the Cadre Controlling Chief Commissioner 	Jurisdictional Cadre Controlling Chief Commissioner of Income Tax concerned.

		is the supervisory authority of the Departmental Representative). Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	
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5.2 The maximum of reward which an officer or an official can be sanctioned by the Committee in a case, or a group of cases, as the case may be, would be as under, subject to an overall limit of Rs 15 lakhs in the entire career of an officer/official:

Sr.No.	Rank of Officer/official	Maximum reward (in Rs)
1	Addl./Joint CIT	2.00 lakh
2	DCIT/ACIT	1.50 lakh
3	ITO	1.00 lakh
4	ITI	50,000
5	Official below ITI	30,000

5.3 For the purposes of processing the reward proposals, the Addl./Joint CIT/DIT(Inv.), working in the Headquarters of the Chairman of the respective Committees, shall function as the Member-Secretary of the Committee. The Member-Secretary shall process all reward cases received upto 25th of every month and put up, by the 7th of the following month, for consideration of the Committee. Proposals received after 25th shall be processed in the immediately succeeding month. The Committee, shall, thereupon meet and draw up a Minutes of its decisions and convey the same to the authorities concerned. Objections, if any, to a reward proposal should also form part of the Minutes and communicated to the DGIT/CCIT (from whom the proposal has been received). The Committee shall endorse all Reward sanction orders to Member (Investigation), CBDT for information and record. Reward shall be disbursed from the office of the Chairman of the Reward Committee within three months of sanction order and after obtaining Vigilance Clearance, in respect of the officers/officials, from the concerned authorities.

5.4 The Reward so sanctioned would be exempt from Income Tax. It will be purely an ex-gratia payment and cannot be claimed as a matter of right. The reward to the officer/official shall be disbursed only on an undertaking given by the officer/official (to whom it is sanctioned) that

the decision of the Committee would not be agitated or challenged before any authority or Court of law.

6 Stage of grant of Reward

6.1 Reward to officers/officials under paras 1 to 3 of this Guideline shall be granted as under:

- (a) Where no appeal has been preferred against the assessment orders, reward may be granted after one year from the end of the year in which the relevant assessment order (s) was passed.
- (b) Where the assessment order is a subject matter of appeal, the reward would be sanctioned only after all appeals are finalised.
- (c) Where the case is before the Settlement Commission, the reward shall be payable after the order u/s 245D(4) has been received and the tax thereon has been paid.

7 Matters to be decided by the Board

7.1 Normally, all reward matters for officers/officials shall be decided by the Committees referred to in para 5 above. However, Committees may send proposal to Member (Inv.) for grant of reward, in respect of work done on or after 1st April, 2006, in special cases (such as TDS cases, recovery cases, intelligence gathering, orders passed by Transfer Pricing Officers, etc.) involving outstanding work done by an officer/official in a case or a group of cases which is not covered by the above Guidelines, but deserves to be recognized by way of a monetary reward. Such proposals shall be decided by the Member (Inv.), CBDT. Further, Member (Inv.), CBDT shall have residual powers for grant of rewards.

(D. Srinivas)

Director, Government of India

Annexure A**Check List for reward in scrutiny cases (referred to in para 1 of Revised Reward Guidelines): to be submitted by the jurisdictional CCIT/DGIT to the Reward Committee**

Designation of the jurisdictional CCIT/DGIT proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted:

Date of submission of the proposal:

Details of the reward proposal

S. No.	Details of the proposal	Remarks
A	Details of the case	
1	Name of the case	
2	Assessment Year	
3	Status of the case (corporate/non-corporate)	
4	Section under which order is passed	
5	Returned income	
6	Assessed Income	
7	Date of order	
8	City where the case has been assessed	
B	Nature of additions made	
9	Brief note on original enquiry/investigation done by the Assessing Officer and the additions made (use separate sheet)	
10	Whether additions on similar issues have been made in earlier assessment years? if so, details thereof	
11	Whether additions are based on any information/report/order received from any other person/authority? If so, details thereof.	
12	Whether additions made are in consequence of or give effect to any court order in any other case or to give effect to any retrospective amendment of law?	
13	Whether additions have resulted only in reduction of losses?	

C	Appellate/revisionary proceedings	
14	Whether revisionary proceedings are pending? If yes, date of finalisation of the proceeding.	
15	Whether first appeal has been filed? (a) If not, has one year from the month of assessment order expired? (b) If yes, has the first appeal been finalized?	
16	If answer to 12(b) above is yes, has second appeal been preferred (either by Department or by the assessee)	
17	Date of order of ITAT	
18	Whether further appeal filed before High Court/Supreme Court	
19	Date of order of High Court/Supreme Court	
20	Income determined after giving effect to appeal/revision orders	
D	Tax effect of addition	
21	Tax effect of the additions qualifying for reward after finalisation of all appellate/revisionary proceedings	
22	(a) Amount of taxes paid out of (17) above (attach audit certificate) (b) Whether 22(a) is above the amount specified in para 1.1(vii) of the Revised Guideline)	
E	Quantum of Reward proposed	
23	2% of the amount referred to in (22) above (restricted to Rs 50 lakhs)	
24	Amount out of (23) above proposed for reward. Give justification if amount equals that in (23) above.	
G	Distribution of reward (refer paras 1.2 and 1.3 of the Revised Guidelines)	
25	Whether Range Head qualifies for reward under para 1.3 of the Revised Guideline? If yes, briefly mention his contribution.	
26	Whether the ITIs working under the Assessing Officer qualify for reward? If yes, briefly mention their contribution	
27	Whether the officials (other than it is) working under the Assessing Officer qualify for reward? If yes, briefly mention their contribution	

28	(In view of 24-27 above), quantum of Reward, out of (24) above, proposed* for : (a) Range Head (b) Assessing Officer (c) ITIs (d)officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
H.	Officers/officials proposed for reward	
29	Name and designation of Range Head	
30	Name and Designation of the Assessing Officer	
31	Name(s) of the ITIs	
32	Name(s) of officials, other than ITIs	
I Any other remark which the CCIT/DGIT(Inv.) may like to give		

Certified that the above information is correct as per records

(Signature, Name and Designation of the
jurisdictional CCIT/DGIT proposing the reward)

Annexure B**Check List for reward in search and seizure cases (referred to in para 2 of Revised Reward Guidelines): to be submitted by the jurisdictional DGIT(Inv.) to the Reward Committee**

Designation of the jurisdictional DGIT (Inv.) proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted:

Date of submission of the proposal:

Details of the reward proposal

S. No.	Details of the proposal	Remarks
A	Details of the case	
1	Name of the Group searched	
2	Assessment Years involved	
3	Date of search	
4	Section under which orders have been passed	
5	Date of order(s) under Section 153A/153C/143(3)	
6	DIT(Inv.) conducting the search	
B	Undisclosed Income detected	
7	Income assessed/re-assessed under sections 153A/153C/143(3) (use separate sheet)	
8	Amount of undisclosed income in (7) above which is relatable to the search and seizure operation	
9	Tax effect of amount referred to in (8) above	
C	Appellate/revisionary/Settlement Commission proceedings	
10	Whether revisionary proceedings are pending? If yes, date of finalisation of the proceeding.	
11	Whether first appeal has been filed? (a) If not, has one year from the month of assessment order expired? (b) If yes, has the first appeal been finalized?	
12	If answer to 12(b) is yes, has second appeal/further appeal to Courts been preferred (either by Department or by the assessee)	
13	Date of order(s) of appeals referred to in (12) above	
14	Date of order, if any u/s 245D(4) by the Settlement Commission	

D	Tax effect of addition	
14	Tax effect of the amount referred to in (9) above sustained in appellate/revisionary proceedings; or Tax payable determined by the Settlement Commission u/s 254D(4)	
15	(a) Amount of taxes paid out of (14) above (attach audit certificate) (b) Whether 15(a) is above the amount specified in para 2.3(i) of the Revised Guideline?	
E	Quantum of Reward proposed	
16	5% of the amount referred to in (15) above (restricted to Rs 50 lakhs)	
17	Amount out of (16) above proposed for reward. Give justification if amount equals that in (16) above.	
G	Distribution of reward (refer paras 3.2 to 3.5 of the Revised Guidelines)	
18	Amount of reward proposed for the team processing the survey	
19	Internal Distribution of reward proposed* for the processing team (also mention name and designation): (a) Addl./Joint CIT : (b) DCIT/ACIT/ITO : (c) ITIs : (d) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
19	Amount of reward proposed for the teams conducting the survey (internal distribution to be worked out by O/o Chairman of the Reward Committee after sanction of reward)	
20	Amount of reward proposed for the Assessing Unit	
21	Internal distribution of reward proposed* for the Assessing Unit (also mention name and designation): (a) Range Head (b) Assessing Officer (c) ITIs (d) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
H.	Any other remarks which the DGIT(Inv.) may like to give:	

Certified that the above information is correct as per records

(Signature, Name and Designation of the
jurisdictional DGIT(Inv.) recommending the reward)

Annexure C**Check List for reward in survey cases (referred to in para 3 of Revised Reward Guidelines): to be submitted by the jurisdictional CCIT/DGIT to the Reward Committee**

Designation of the jurisdictional CCIT/DGIT (Inv.) proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted:

Date of submission of the proposal:

Details of the reward proposal

S. No.	Details of the proposal	Remarks
A	Details of the case	
1	Name of the Group surveyed	
2	Assessment Years involved	
3	Date of survey	
4	Section under which orders have been passed	
5	Date of order(s)	
6	City where the main case(s) of the Group is/are assessed	
B	Undisclosed Income detected	
7	Income assessed/re-assessed under sections 143(3)/147 (use separate sheet)	
8	Amount of undisclosed income in (7) above which is relatable to the survey operation	
9	Tax effect of amount referred to in (8) above	
C	Appellate/revisionary/Settlement Commission proceedings	
10	Whether revisionary proceedings are pending? If yes, date of finalisation of the proceeding.	
11	Whether first appeal has been filed? (a) If not, has one year from the month of assessment order expired? (b) If yes, has the first appeal been finalized?	
12	If answer to 12(b) is yes, has second appeal/further appeal to Courts been preferred (either by Department or by the assessee)	
13	Date of order(s) of appeals referred to in (12) above	
14	Date of order, if any u/s 245D(4) by the Settlement Commission	

D	Tax effect of addition	
14	Tax effect of the amount referred to in (9) above sustained in appellate/revisionary proceedings; or Tax payable determined by the Settlement Commission u/s 254D(4)	
15	(a) Amount of taxes paid out of (14) above (attach audit certificate) (b) Whether 15(a) is above the amount specified in para 3.1(i) of the Revised Guideline?	
E	Quantum of Reward proposed	
16	5% of the amount referred to in (15) above (restricted to Rs.50 lakhs)	
17	Amount out of (16) above proposed for reward. Give justification if amount equals that in (16) above.	
G	Distribution of reward (refer paras 2.4 to 2.7 of the Revised Guidelines)	
18	Amount of reward proposed for the team processing the search	
19	Internal Distribution of reward proposed* for the processing team (also mention name and designation): (c) Addl./Joint DIT(Inv.) : (d) DDIT/ADIT(Inv.) : (e) ITO(Inv.) : (f) ITIs : (g) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
20	Amount of reward proposed for the teams conducting the search (Internal distribution to be worked out by DGIT(Inv.) after sanction of reward)	
21	Amount of reward proposed for the Assessing Unit	
22	Internal distribution of reward proposed* for the Assessing Unit (also mention name and designation): (a) Range Head (b) Assessing Officer (c) ITIs (d) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
H	Any other remarks which the CCIT/DGIT(Inv.) may like to give	

Certified that the above information is correct as per records

(Signature, Name and Designation of the
jurisdictional CCIT/DGIT recommending the reward)

Annexure D**Check List for reward for best cases in Tribunal (referred to in para 4 of Revised Reward Guidelines): to be submitted by the jurisdictional CCIT to the Reward Committee**

Designation of the jurisdictional CCIT proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted:

Date of submission of the proposal:

Details of the reward proposal

S. No.	Details of the proposal	Remarks
1	Name of the case	
2	Assessment Year(s)	
3	Status of the case (corporate/non-corporate)	
4	Section under which assessment order was originally passed	
5	Income upheld in second appeal	
6	Break-up of income upheld by ITAT (a)Income sustained in first appeal : (b)Income deleted in first appeal :	
7	Tax effect of the Income upheld in second appeal	
8	Date of order of ITAT	
9	Special contribution made by the DR, esp. in respect of 6(b) above (use separate sheet)	
10	Name and Designation of the DR	
11	Whether taxes have been paid (Attach Audit certificate)	
12	1% of the tax effect of the amount upheld in ITAT attributable to the special efforts made by the DR	
13	Amount of reward proposed (restricted to amounts specified in para 5.2); give justification if amount equals that at (9) above	
14	Any other remarks which the CCIT may like to give	

Certified that the above information is correct as per records

(Signature, Name and Designation of the jurisdictional CCIT proposing the reward)

ANNEXURE - 99A

Date of Issue: 30.08.2007

Subject: Retention of Seized Materials-Instruction - reg.

F. No. 286/99/2007-IT(Inv. II)

Ministry of Finance

Department of Revenue

Central Board of Direct Taxes

To

The Chief Commissioner of Income Tax (CCA)

The Chief Commissioner of Income Tax (Central)

The Director General of Income-tax (Investigation)

Sir/Madam,

Subject : *Retention of Seized Materials-Instruction - reg.*

Instances have come to the notice of the Board that the seized materials are untraceable at the time of granting of approval for retention of seized materials by the Competent Authority u/s 132(8) of the Income Tax Act, 1961.

In view of the above, I am directed to state that the Competent authority should ensure that seized or impounded books of account or documents are physically handed over by the officers working under him/her, at the time of transfer and a copy of such handover note is marked to the Competent authority. For loss of seized impounded books of Accounts or documents, the Competent authority should fix personal responsibility and bring it to the notice of Board.

Yours faithfully,

Sd./-

(Aarsi Prasad)

Under Secretary (Inv. II & III)

ANNEXURE - 100**Extracts from the Antiquities and Art Treasures Act, 1972****S.2. Definitions:**

(1) In this Act, unless the context otherwise requires:

- (a) “antiquity” includes
 - (i) any coin, sculpture, painting epigraph or other work of art or craftsmanship;
 - (ii) any article, object or thing detached from a building or cave;
 - (iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;
 - (iv) any article, object or thing of historical interest;
 - (v) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act, which has been in existence for not less than one hundred years; and any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years;
- (b) “art treasure” means any human work of art, not being an antiquity, declared by the Central Government by notification in the Official Gazette, to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value:

Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive;

S.20 Payment of compensation for antiquities and art treasures compulsorily acquired under section 19

(1) Where any antiquity or art treasure is compulsorily acquired under section 19, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,

- (a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;
- (c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the antiquity or art treasure compulsorily acquired to assist the arbitrator and

where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

- (d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;

S.24 Power to determine whether or not an article, etc., is antiquity or art treasure

If any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is not an art treasure for the purposes of this Act, it shall be referred to the Director-General, Archaeological Survey of India, or to an officer not below the rank of a Director in the Archaeological Survey of India authorised by the Director-General, Archaeological Survey of India and the decision of the Director-General, Archaeological Survey of India or such officer, as the case may be, on such question shall be final.

ANNEXURE -101

Extracts from the Arms Act, 1959**Acquisition, Possession, Manufacture, Sale, Import, Export, and Transport of Arms and Ammunition****S.3 Licence for acquisition and possession of firearms and ammunition**

(1) No person shall acquire, have in his possession, or carry any firearm or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that a person may, without himself holding a licence, carry any firearm or ammunition in the presence, or under the written authority, of the holder of the licence for repair or for renewal of the licence or for use by such holder.

[(2) Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than three firearms:

Provided that a person who has in his possession more firearms than three at the commencement of the Arms (Amendment) Act, 1983, may retain with him any three of such firearms and shall deposit, within ninety days from such commencement, the remaining firearms with the officer in charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (1) of Section 21, with a licensed dealer, or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that sub-section.

(3) Nothing contained in sub -sections (2) to (6) (both inclusive) of Section 21 shall apply in relation to any deposit of firearms under the proviso to sub-section (2) as they apply in relation to the deposit of any arms or ammunition under sub-section (1) of that section.]

ANNEXURE -102**Extracts from the Bankers Books Evidence Act, 1891**

(An Act to amend the Law of Evidence with respect to Bankers' Books)

S.4 Mode of proof of entries in bankers books

Subject to the provisions of this Act, a certified copy of any entry in a banker's books shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

ANNEXURE -103

Extracts from the Code of Criminal Procedure, 1973**S.163 No inducement to be offered**

(1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the Indian Evidence Act, 1872(1 of 1872).

(2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 164.

S.164 Recording of confessions and statements

(1) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial:

Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:-

“I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily

made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him. (Signed) A. B. (Magistrate).

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

S.281 Record of examination of accused

(1) Whenever the accused is examined by a Metropolitan Magistrate, the Magistrate shall make a memorandum of the substance of the examination of the accused in the language of the Court and such memorandum shall be signed by the Magistrate and shall form part of the record.

(2) Whenever the accused is examined by any Magistrate other than a Metropolitan Magistrate, or by a Court of Session, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full by the presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf.

(3) The record shall, if practicable, be in the language in which the accused is examined, or if that is not practicable, in the language of the Court.

(4) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(5) It shall thereafter be signed by the accused and by the Magistrate or presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(6) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

ANNEXURE - 104

Extracts from the Customs Act, 1962

Confiscation of Goods and Conveyances and Imposition of Penalties**S.111 Confiscation of improperly imported goods etc.**

The following goods brought from a place outside India shall be liable to confiscation:-

- (a) any goods imported by sea or air which are unloaded or attempted to be unloaded at any place other than a customs port or customs airport appointed under clause (a) of section 7 for the unloading of such goods;
- (b) any goods imported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the import of such goods;
- (c) any dutiable or prohibited goods brought into any bay, gulf, creek or tidal river for the purpose of being landed at a place other than a customs port;
- (d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e) any dutiable or prohibited goods found concealed in any manner in any conveyance;
- (f) any dutiable or prohibited goods required to be mentioned under the regulations in an import manifest or import report which are not so mentioned;
- (g) any dutiable or prohibited goods which are unloaded from a conveyance in contravention of the provisions of section 32, other than goods inadvertently unloaded but included in the record kept under sub-section (2) of section 45;
- (h) any dutiable or prohibited goods unloaded or attempted to be unloaded in contravention of the provisions of section 33 or section 34;
- (i) any dutiable or prohibited goods found concealed in any manner in any package either before or after the unloading thereof;
- (j) any dutiable or prohibited goods removed or attempted to be removed from a customs area or a warehouse without the permission of the proper officer or contrary to the terms of such permission;

- (k) any dutiable or prohibited goods imported by land in respect of which the order permitting clearance of the goods required to be produced under section 109 is not produced or which do not correspond in any material particular with the specification contained therein;
- (l) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof;
- (n) any dutiable or prohibited goods transited with or without transshipment or attempted to be so transited in contravention of the provisions of Chapter VIII;
- (o) any goods exempted, subject to any condition, from duty or any prohibition in respect of the import thereof under this Act or any other law for the time being in force, in respect of which the condition is not observed, unless the non-observance of the condition was sanctioned by the proper officer;
- (p) any notified goods in relation to which any provisions of Chapter IV A or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened

S.112 Penalty for improper importation of goods, etc.

Any person-

- (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or
- (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111 shall be liable,-
 - (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater;
 - (ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater;

- (iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding five times the difference between the declared value and the value thereof or one thousand rupees, whichever is the greater;
- (iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding five times the value of the goods or five times the difference between the declared value and the value thereof or one thousand rupees, whichever is the highest;
- (v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding five times the duty sought to be evaded on such goods or five times the difference between the declared value and the value thereof or one thousand rupees, whichever is the highest.

S.113 Confiscation of goods attempted to be improperly exported etc.

The following export goods shall be liable to confiscation:-

- (a) any goods attempted to be exported by sea or air from any place other than a customs port or a customs airport appointed for the loading of such goods;
- (b) any goods attempted to be exported by land or inland water through any route other than a route specified in a notification issued under clause (c) of section 7 for the export of such goods;
- (c) any dutiable or prohibited goods brought near the land frontier or the coast of India or near any bay, gulf, creek or tidal river for the purpose of being exported from a place other than a land-customs station or a customs port appointed for the loading of such goods;
- (d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contracted to any prohibition imposed by or under this Act or any other law for the time being in force;
- (e) any dutiable or prohibited goods found concealed in a package which is brought within the limits of a customs area for the purpose of exportation;
- (f) any dutiable or prohibited goods which are loaded or attempted to be loaded in contravention of the provisions of section 33 or section 34;
- (g) any dutiable or prohibited goods loaded or attempted to be loaded

on any conveyance, or water-borne, or attempted to be water-borne for being loaded on any vessel, the eventual destination of which is a place outside India, without the permission of the proper officer;

- (h) any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;
- (i) any dutiable or prohibited goods or goods entered for exportation under a claim for drawback which do not correspond in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof;
- (j) any goods on which import duty has not been paid and which are entered for exportation under a claim for drawback under section 74;
- (k) any goods cleared for exportation under a claim for drawback which are not loaded for exportation on account of any wilful act, negligence or default of the exporter, his agent or employee, or which after having been loaded for exportation are unloaded without the permission of the proper officer
- (l) any specified goods in relation to which any provisions of Chapter IV B or of any rule made under this Act for carrying out the purposes of that Chapter have been contravened.

S.114 Penalty for attempt to export goods improperly, etc.

Any person who, in relation to any goods, does or omits to do, any act, which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable

- (i) in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty not exceeding five times the value of the goods or one thousand rupees, whichever is the greater;
- (ii) in the case of dutiable goods, other than prohibited goods, to a penalty not exceeding five times the duty sought to be evaded on such goods or one thousand rupees, whichever is the greater;
- (iii) in the case of goods under claim for drawback, to a penalty not exceeding five times the amount of drawback claimed or one thousand rupees, whichever is the greater.

S.115 Confiscation of conveyances

- (1) The following conveyances shall be liable to confiscation:-

- (a) any vessel which is or has been within the Indian customs waters, any aircraft which is or has been in India, or any vehicle which is or has been in a customs area, while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;
 - (b) any conveyance from which the whole or any part of the goods is thrown overboard, staved or destroyed so as to prevent seizure by an officer of customs;
 - (c) any conveyance which having been required to stop or land under section 106 fails to do so, except for good and sufficient cause;
 - (d) any conveyance from which any warehoused goods cleared for exportation, or any other goods cleared for exportation under a claim for drawback, are unloaded, without the permission of the proper officer;
 - (e) any conveyance carrying imported goods which has entered India and is afterwards found with the whole or substantial portion of such goods missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the goods.
- (2) Any conveyance or animal used as a means of transport in the smuggling of any goods or in the carriage of any smuggled goods shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal.

Provided that where any such conveyance is used for the carriage of goods or passengers for hire, the owner of any conveyance shall be given an option to pay in lieu to the confiscation of the conveyance a fine not exceeding the market price of the goods which are sought to be smuggled or the smuggled goods, as the case may be.

Explanation:

In this section, "market price" means market price at the date when the goods are seized.

ANNEXURE - 105**Extracts from the Indian Evidence Act, 1872****S.24 Confession caused by inducement, threat or promise when irrelevant in criminal proceedings:**

A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise, having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

S.29 Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.

If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

S.34 Entries in books of account when relevant

Entries in the books of account, including those maintained in an electronic form, regularly kept in the course of business, are relevant whenever they refer to a matter into which the court has to inquire but such statements shall not alone be sufficient evidence to charge any person with liability.

S.35 Relevancy of entry in public record made in performance of duty

An entry in any public or other official book, register or [record or an electronic record], stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or [record or an electronic record] is kept, is itself a relevant fact.

S.58 Facts admitted need not be proved

No fact need to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing,

they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

S.59 Proof of facts by oral evidence

All facts, except the contents of documents or electronic records, may be proved by oral evidence.

S.61 Proof of contents of documents

The contents of documents may be proved either by primary or by secondary evidence.

S.62 Primary evidence

Primary evidence means the document itself produced for the inspection of the Court.

Explanation 1- Where a document is executed in several parts, each part is primary evidence of the document:

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 2- Where a number of documents are all made by one uniform process, as in the case of printing, lithography, or photography, each is primary evidence of the contents of the rest ; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.

S.63 Secondary evidence

Secondary evidence means and includes-

- (1) certified copies given under the provisions hereinafter contained;
- (2) Copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies.
- (3) copies made from or compared with the original ;
- (4) counter parts of documents as against the parties who did not execute them;
- (5) oral accounts of the contents of a documents given by some person who has himself seen it.

S.64 Proof of documents by primary evidence

Documents must be proved by primary evidence except in the cases hereinafter mentioned.

S.65 Cases in which secondary evidence relating to documents may be given

Secondary evidence may be given of the existence, condition, or contents of a documents in the following cases:-

- (a) When the original is shown or appears to be in the possession or power-
of the person against whom the document is sought to be proved ,
or
of any person out of reach of, or not subject to, the process of the Court or
of any person legally bound to produce it,
and when, after the notice mentioned in section 66, such person does not produce it;
- (b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;
- (c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;
- (d) when the original is of such a nature as not to be easily movable;
- (e) when the original is public document within the meaning of section 74;
- (f) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in [India] to be given in evidence;
- (g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in court and the fact to be proved is the general result of the whole collection.

In cases (a), (c) and (d), any secondary evidence of the contents of the document is admissible.

In case (b), the written admission is admissible.

In case (e) or (f), a certified copy of the document, but no other kind of secondary evidence, admissible.

In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

S.65A Special provisions as to evidence relating to electronic record

The contents of electronic records may be proved in accordance with the provisions of section 65B.

S.65B Admissibility of electronic records

(1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein or which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:-

- (a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;
- (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;
- (c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and
- (d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the functions of storing or processing information for the purposes of any activities of any regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computer, whether-

- (a) by a combination of computers operating over that period; or

- (b) by different computers operating in succession over that period;
or
- (c) by different combinations of computers operating in succession over that period; or
- (d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers.

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,-

- (a) identifying the electronic record containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;
- (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purpose of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,-

- (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- (b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;
- (c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or with or

without human intervention by means of any appropriate equipment.

Explanation.- For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

S.101 Burden of proof

Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts, which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that he burden of proof lies on that person.

S.102 On whom burden of proof lies

The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

S.103 Burden of proof as to particular fact

The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

S.106 Burden of proving fact especially within knowledge

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

S.110 Burden of proof as to ownership

When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

S.114 Court may presume existence of certain facts

The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

S.125 Information as to commission of offences

No Magistrate or Police ý shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-Officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.-“Revenue-officer” in this section means any officer employed in or about the business of any branch of the public revenue.

ANNEXURE -106**EXtracts from the Indian Penal Code, 1860****Chapter X : of Contempts of the Lawful Authority of Public Servants****S.172 Absconding to avoid service of summons or other proceeding:**

Whoever absconds in order to avoid being served with a summons, notice or order, proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both;

or, if the summons or notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

S.174 Non-attendance in obedience to an order from public servant:

Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place of time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both, or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

S.178 Refusing oath or affirmation when duly required by public servant to make it:

Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

S.179 Refusing to answer public servant authorised to question:

Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple

imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

S.180 Refusing to sign statement:

Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

S.181 False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation:

Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorised by law to administer such oath [or affirmation], makes, to such public servant or other person as aforesaid, touching the subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

S.183 Resistance to the taking of property by the lawful authority of a public servant:

Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

S.186 Obstructing public servant in discharge of public functions:

Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

S.187 Omission to assist public servant when bound by law to give assistance:

Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any

process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

S.189 Threat of injury to public servant:

Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

S.190 Threat of injury to induce person to refrain from applying for protection to public servant:

Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

S.191 Giving false evidence:

Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1- A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2- A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

S.192 Fabricating false evidence:

Whoever causes any circumstance to exist or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding

taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence".

S.193 Punishment for false evidence:

Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1- A trial before a Court-martial is a judicial proceeding.

Explanation 2- An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Explanation 3- An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a state of a judicial proceeding, though that investigation may not take place before a Court of Justice.

S.228 Intentional insult or interruption to public servant sitting in judicial proceeding:

Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

S.353 Assault or criminal force to deter public servant from discharge of his duty

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

ANNEXURE -107

Extracts from the Information Technology Act, 2000**S.2 Definitions**

(1) In this Act, unless the context otherwise requires, -

- (i) “computer” means any electronic magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic, and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network;
- (j) “computer network” means the interconnection of one or more computers through-
 - (i) the use of satellite, microwave, terrestrial line or other communication media; and
 - (ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained;
- (k) “computer resource” means computer, computer system, computer network, data, computer data base or software;
- (l) “computer system” means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, which contain computer programmes, electronic instructions, input data and output data, that performs logic, arithmetic, data storage and retrieval, communication control and other functions;
- (o) “data” means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;
- (r) “electronic form” with reference to information means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

- (t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;
- (v) "information" includes data, text, images, sound, voice, codes, computer programmes, software and databases or micro film or computer generated micro fiche:

Digital Signature

S.3 Authentication of electronic records.

- (1) Subject to the provisions of this section any subscriber may authenticate an electronic record by affixing his digital signature.
- (2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

Explanation.- For the purposes of this sub-section, "hash function" means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as "hash result" such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input making it computationally unfeasible-

- (a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;
- (b) that two electronic records can produce the same hash result using the algorithm.
- (3) Any person by the use of a public key of the subscriber can verify the electronic record.
- (4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

Offences

S.65 Tampering with computer source documents

Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to conceal, destroy or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation.- For the purposes of this section, "computer source code" means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

S.66 Hacking with computer system

(1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hack:

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

.....

S.81 Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

ANNEXURE -108**Extracts from the Oaths Act, 1969****S.3 Power to administer oaths**

(1) The following courts and persons shall have power to administer, by themselves or, subject to the provisions of sub-section (2) of section 6, by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties imposed or in exercise of the powers conferred upon them by law, namely:—

- (a) all courts and persons having by law or consent of parties authority to receive evidence;

S.4 Oaths or affirmations to be made by witnesses, interpreters and jurors.

(1) Oaths or affirmations shall be made by the following persons, namely:-

- (a) all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any court or person having by law or consent of parties authority to examine such persons or to receive evidence;
- (b) interpreters of questions put to, and evidence given by, witnesses; and
- (c) jurors:

Provided that where the witness is a child under twelve years of age, and the court or person having authority to examine such witness is of opinion that, though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation, the foregoing provisions of this section and the provisions of section 5 shall not apply to such witness; but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth.

(2) Nothing in this section shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, unless he is examined as a witness for the defence, or necessary to administer to the official interpreter of any court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

S.5 Affirmation by persons desiring to affirm

A witness, interpreter or juror may, instead of making an oath, make an affirmation.

S.6 Forms of oaths and affirmations

(1) All oaths and affirmations made under section 4 shall be administered

according to such one of the forms given in the Schedule as may be appropriate to the circumstances of the case:

Provided that if a witness in any judicial proceeding desires to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the class to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the court may, if it thinks fit, notwithstanding anything herein before contained, allow him to give evidence on such oath or affirmation.

(2) All such oaths and affirmations shall, in the case of all courts other than the Supreme Court and the High Courts, be administered by the presiding officer of the court himself, or, in the case of a Bench of Judges or Magistrates, by any one of the Judges or Magistrates, as the case may be.

S.7 Proceedings and evidence not invalidated by omission of oath or irregularity

No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever in the administration of any oath or affirmation or in the form in which it is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

S.8 Persons giving evidence bound to state the truth

Every persons giving evidence on any subject before any court or person hereby authorised to administer oaths and affirmations shall be bound to state the truth on such subject.

THE SCHEDULE (See Sec. 6) FORMS OF OATHS OR AFFIRMATIONS

Form No. 1 (Witnesses):-

I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth.

Form No. 2 (Jurors):-

Form No. 3 (Interpreters):-

I do swear in the name of God/solemnly affirm that I will well and truly interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation.

Form No. 4 (Affidavits):-

I do swear in the name of God/solemnly affirm that this is my name and signature (or mark) and that the contents of this my affidavit are true.

ANNEXURE -109

Extreacts from the Preveton of Corruption Act, 1988**Offences and Penalties****S.7 Public servant taking gratification other than legal remuneration in respect of an official act**

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations:

- (a) "Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.
- (b) "Gratification." The word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.
- (c) "Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.
- (d) "A motive or reward for doing." A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.
- (e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

S.13 Criminal misconduct by a public servant

- (1) A public servant is said to commit the offence of criminal misconduct:
- (a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or
 - (b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or
 - (c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or
 - (d) if he,-
 - (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
 - (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or
 - (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or
 - (e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation.- For the purposes of this section, “known sources of income” means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

- (2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

ANNEXURE - 110

Extracts from the Prevention of Money Laundering Act, 2002**S.3 Offence of money-laundering**

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering.

S.4 Punishment for money-laundering

Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine which may extend to five lakh rupees:

Provided that where the proceeds of crime involved in money-laundering relates to any offence specified under paragraph 2 of Part A of the Schedule, the provisions of this section shall have effect as if for the words "which may extend to seven years", the words "which may extend to ten years" had been substituted.

S.53 Empowerment of certain officers

The Central Government may, by a special or general order, empower any officer of the Central Government or of a State Government to act as an authority under this Act.

S.54 Certain officers to assist enquiry, etc.:

The following officers are hereby empowered and required to assist the authorities in the enforcement of this Act, namely:-

- (c) income-tax authorities under sub-section (1) of section 117 of the Income-tax Act, 1961 (43 of 1961);

ANNEXURE - 111

Extracts from the Wild Life (Protection) Act, 1972 as amended by The Wild Life (Protection) Amendment Act, 2002**S.40 Declarations.**

(of The Wild Life (Protection) Act, 1972)

(1) Every person having at the commencement of this Act the control, custody or possession of any captive animal specified in Schedule I or Part II of Schedule II, or any uncured trophy derived from such animal or salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, shall, within thirty days from the commencement of this Act, declare to the Chief Wild Life Warden or the authorised officer the number and description of the animal, or article of the foregoing description under his control, custody or possession and the place where such animal or article is kept.

(2) No person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale or otherwise transfer or transport any animal specified in Schedule I or Part II of Schedule II or any uncured trophy or meat derived from such animal, or the salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to a public museum or zoo.

(4) The State Government may, by notification, require any person to declare to the Chief Wild Life Warden or the authorised officer any animal article or trophy (other than a musk of a musk deer or horn of a rhinoceros) or salted or dried skins derived from an animal specified in Schedule I or Part II of Schedule II in his control, custody or possession in such form, in such manner, and within such time, as may be prescribed.

S.25 Amendment of section 40.-

(The Wild Life (Protection) Amendment Act, 2002)

In section 40 of principal Act,-

- (i) in sub-section (1), for the words “or any uncured trophy”, the words “or animal article, trophy or uncured trophy” shall be substituted;
- (ii) after sub-section (2), the following sub-sections shall be inserted, namely:-

“(2A) No person other than a person HAVING a certificate of ownership, shall, after the commencement of the Wild Life

(Protection) Amendment Act, 2002 acquire, receive, keep in his control, custody or possession any captive animal, animal article, trophy or uncured trophy specified in Schedule I or Part II of Schedule II, except by way of inheritance.

- (2B) Every person inheriting any captive animal, animal article, trophy or uncured trophy under sub-section (2A) shall, within ninety days of such inheritance make a declaration to the Chief Wild Life Warden or the authorised officer and the provisions of sections 41 and 42 shall apply as if the declaration had been made under sub-section (1) of section 40:

Provided that nothing in sub-sections (2A) and (2B) shall apply to the live elephant.”.

- (iii) in sub-section (4), for the words “any animal article”, the words “any animal or animal article” shall be substituted.

S.43 Regulation of transfer of animal, etc.

(The Wild Life (Protection) Amendment Act, 2002).

(1) No person HAVING in his possession captive animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership shall transfer by way of sale or offer for sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.

(2) Where a person transfers or transports FROM the State in which he resides to another State or acquires by transfer FROM outside the state, any such animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

(3) Nothing in this section shall apply-

- (a) to tail feather of peacock and the animal article or trophies made therefrom;
- (b) to transfer of captive animals between recognised zoos subject to the provisions of section 38-I, and transfer amongst zoos and public museums.”.

Amendment of section 51

(of The Wild Life (Protection) Act, 1972)

S.30.

(The Wild Life (Protection) Amendment Act, 2002).

In section 51 of the principal Act,-

- (i) in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:-

“Provided that where the offence committed is in relation to any animal specified in Schedule I or Part II of Schedule II or meat of any such animal or animal article, trophy or uncured trophy derived FROM such animal or where the offence relates to hunting in a sanctuary or a National Park or altering the boundaries of a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees:

Provided further that in the case of a second or subsequent offence of the nature mentioned in this sub-section, the term of the imprisonment shall not be less than three years but may extend to seven years and also with fine which shall not be less than twenty-five thousand rupees.”;

- (ii) in sub-section (1A), for the words “one year”, the words “three years” and for the words “five thousand rupees”, the words “ten thousand rupees” shall be substituted.