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The
Registered Accountants'
Journal

(Conducted under the auspices of the Society of Auditors, Madras.)

Edited by:
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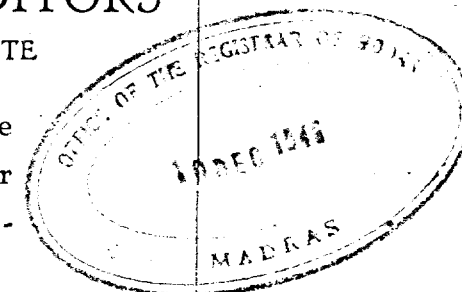


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Demonitization Ordinance.—We welcome the Demonitization Ordinance of the Government of India in that it is an earnest attempt to check that ever-increasing tendency to conduct all business transactions in higher denomination currency notes, thereby facilitating maintenance of incomplete and false accounts. The ingenuity of the tax dodgers would certainly find various methods of getting over the inconveniences caused by the ordinance, but it must be granted that the risk taken is very grave indeed. Neither the penalties provided under Section 7 of the Ordinance nor the steps taken to identify the person exchanging

such notes under Section 5, would, however, achieve the expected results unless the Government follows these with the next logical step, further checking up and investigation through existing machinery of the Income-tax Department. The main object of the Ordinance would have been defeated if this compelling next step is not taken up. As a measure of checking inflation also the Ordinance should be a success as at least in part the hoarded notes would not be unearthed for fear of the attendant risks. The needless panic engendered in the minds of the innocent public is indeed regrettable and unscrupulous per-

sons might have found in this just another opportunity for their unsocial activities. A calm reading of the provisions of the Ordinance should, however, have produced confidence and allayed any panic as far as the innocent people are concerned. We congratulate the Government on their bold measure.

The Article "Tax Evasions and how to prevent it" appearing in the December issue of our contemporary "The Registered Accountant" is highly interesting in this context. Some of the methods suggested therein have been adopted in the Ordinance. Considered as methods of checking the unethical and wholly anti-social activities of the tax-dodgers and black-marketeers, the various other matters dealt with in this article, everyone ought to approve.

The indirect benefits conferred on the law-abiding citizen by putting an end to the activities of the tax-evaders is really immense. We are, however, convinced that the existing machinery of the Income-tax Department working in close contact with the Registration Department, the Police and C.I.D. ought to be sufficient. We are particularly anxious that the methods adopted in America, details of which appeared in our November issue in encouraging tax informers should not be introduced or encouraged in our country at the present stage. We have enough troubles in our civil life as it is and we can ill-afford these American methods which are, in our opinion, just modern versions of the much-hated methods of the German Gestapo.

SPECIAL ARTICLES

Sections 86F and 87D(5) of the Indian Companies Act, 1913

(M. S. SRINIVASAN.)

(Continued from page 55.)

As already noticed in the beginning, the two sections 86F and 87D(5) were introduced by the Amending Act of 1936 as it was thought that the provisions of section 91A did not afford sufficient safeguards. If the previous consent of the Board of Directors is not obtained, and if such contracts are brought before the Board of Directors for their adoption long after the performance of such contracts, the directors have only as much opportunity for examining the character of the contracts as they had before 1936 under the provisions of section 91A when the interested director came

before the Board of Directors for the disclosure of his interest. In this connection the following observations of Sir Peter Benson Maxwell, in pages 315 and 316, in his book on interpretation of statutes, are worth reading:

"When a statute requires that something shall be done, or done in a particular manner or form, without expressly declaring what shall be the consequence of non-compliance, the question often arises: What intention is to be attributed by inference to the Legislature?

Where, indeed, the whole aim and object of the Legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other manner, no doubt can be entertained as to the intention."

"The propriety, indeed, of ever treating the provisions of any statute in the latter manner (did not affect the validity) has been sometimes questioned, but it is justifiable in principle as well as abundantly established by numerous authorities."

"It may, perhaps, be found generally correct to say that nullification is the natural and usual consequence of disobedience, but the question is in the main governed by considerations of convenience and justice, and, when that result would involve general inconvenience or injustice to innocent persons, or advantage to those guilty of the neglect, without promoting the real aim and object of the enactment, such an intention is not to be attributed to the Legislature. The whole scope and purpose of the statute under consideration must be regarded."

"A strong line of distinction may be drawn between cases where the prescriptions of the Act affect the performance of a duty and where they relate to a privilege or power. Where powers, rights, or immunities are granted with a direction that certain regulations, formalities or conditions shall be complied with it seems neither unjust nor inconvenient to

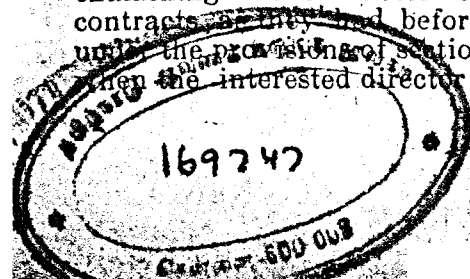
exact a rigorous observance of them as essential to the acquisition of the right or authority conferred and it is therefore probable that such was the intention of the Legislature".

The non-compliance with the provisions of sections 86F and 87D(5) will only defeat the whole aim and object of the Legislature in introducing them by the Amendment Act of 1936. The nullification of the contracts entered into without the previous consent of the directors will not involve any general inconvenience as the parties affected are some of the directors concerned or the managing agent. It will be difficult to attribute innocence to the said parties. The said parties are the guilty and nullification cannot generally be an advantage to them.

The power of making contracts for purchase or sale of goods and materials for the company is generally vested with the managing agents and therefore any contract entered into by a managing agent, without complying with the provisions of section 87D(5), has to be construed, in accordance with the aforesaid observations of Sir Peter Benson Maxwell, to be null and void.

There is thus ample room for considering the two sections under consideration as IMPERATIVE and not merely DIRECTORY. As the consequence of non-compliance with the provisions of a statute which is imperative in nature is the nullity of the contracts, any subsequent approval by the Board of Directors of the said contracts cannot make them valid.

On a perusal of the aforesaid quotations one is inclined to view



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that there is greater reason for treating the said sections as imperative and not as directory with the consequence that the contracts entered into by a director or a managing agent with the company for the purchase, sale or supply of goods and materials without obtaining the previous consent of the Board of Directors are to be treated as null and void.

There are practical difficulties in attempting to comply with the provisions of the aforesaid two sections. Every time a purchase or sale is to be made from or to a director or a managing agent or their partners, each specific proposal for entering into such a contract is expected to be brought before the Board of Directors. A resolution by the Board of Directors allowing a purchase from a director, X, cotton upto the extent of Rs. 1,00,000 will not have any value. When the quantity is not mentioned, and the rate is not fixed, that resolution will not amount to a compliance with the provisions of the said sections. When a director or a managing agent comes before the Board of Directors for their consent specific terms must be placed before them mentioning the quantity, quality, rate, and time of delivery. This may require, if such contracts from directors or managing agent are considerable, frequent meetings of the Board of Directors.

Under section 86F, the consent of the Board of Directors is necessary in the case of contracts to be made by a director, or the firm of which he is a partner, or any partner of such firm, or the private company of which he is a member or a director. When a director enters into a contract he can be expected to seek the consent of the directors. But, when a firm of which he is a partner enters into a contract, unless the director happens to be the active partner of the firm, the director may not have any knowledge of any such proposed contract and it is not feasible for the other partners to think of seeking the consent of the directors. Probably the statute expects that every partner of a firm must get himself acquainted with the names of the companies in which every other partner of the firm is a director. Such an expectation is too much to be practicable. Again, in the case of contracts by a private company, does the statute expect the executive authority of the private company to inform one of its members or directors who happens to be a director of a company with which the private company intends to enter into a contract? Is the executive authority of the private company expected to get himself acquainted with the names of all the companies in which its members are directors? And are such expectations on the part of the Legislature feasible at all?

Letters to the Editor.

Will you please let me know whether at present there is any "R. A. Articles Association" in any part of India, if so, its address?

"N.D."

(We are not aware of any such Association functioning anywhere in this country at present though one such association was working in Madras sometime ago. Information from readers on this question is requested. (Ed.)

READERS' FORUM

This section is intended to serve our readers in two ways. Firstly, difficult problems of each individual professional accountant is discussed and answers are obtained. Secondly, the readers who consider the answers get the benefit of the intense study that the answering of the problem implies and all readers get the benefit of the general discussion.

QUERIES

Q. 15. While examining the accounts of a private limited company, I came across some big items of expenses which were not supported by original vouchers. There were office vouchers signed by the Managing Director. The accounts were placed before the Managing Committee and were unanimously passed. When the auditor objected to these expenses, a special general meeting was called to consider the expenses and the expenses were passed by majority. What is the duty of an auditor regarding such expenses? Is it necessary to point out the irregularity in his audit report which is to be submitted after the special general meeting referred to above? In case the expenses are passed unanimously by the special General Meeting, is it necessary to make any reference to such expenses in the audit report?

"D.R.R."

Q. 16. A public limited company has provided in its Articles of Association that a certain per-

centage of the net profits is payable to promoter-block share-holders. The Department holds that the amount paid to the promoter-block share-holders is dividend and hence does not qualify for the rebate of super-tax of one anna in the rupee. The distinction between this share of the net profits and a dividend which is payable on declaration by the General body on the recommendation of the Directors has been pointed out but has been of no avail. Will any of your readers intimate if the plea as taken by the Company has been successful in any case within their experience?

"NANA"

Q. 17. My clients, a limited company, have made a substantial profit on sale of investments and want that the profit should be credited to Reserve account direct without passing through Profit and Loss or Income and Expenditure accounts. Is this permissible?

"XYZ"

ANSWERS TO QUERIES

Q. 9.—Notes of the Income-tax Officer—Is an assessee entitled to have a copy of the notes made by the Income-tax Officer during the course of the assessment proceedings so as to make sure that all his oral statements have been properly recorded? If not, why not?

"S. R."

A. 7.—The Notes of the Income-tax Officer are purely for his own purposes and a copy cannot be obtained as matter of right. The assessee has always the opportunity to challenge any statement so recorded at a time when he finds it prejudicial to him.

"V. S."

Q. 10.—Return of books, etc., by the Income-tax Department—Is an Income-tax Officer entitled to refuse the return of the books and vouchers for purposes of filing an appeal even after the assessment is completed?

"S. R."

A. 8.—The Income-tax Officer cannot refuse the return of books after the purpose of inspection is over. In fact he must allow the assessee to take the books every day and bring them back on the next day of inspection.

"V.S."

Q. 11.—A firm registered under the Income-tax Act, consisting of A, B and C carry on the business of rice merchants. B and C started another firm for carrying on business as receiving and forwarding agents, Commission agents, and dealers in grain, etc. Before the starting of the second firm the work of taking delivery of the rice from the suppliers situated in another district, and marking and despatching it by rail to the first firm (A, B and C) was done by an agent at the place of purchase for a commission of so much per bag of rice handled and actual expenses. After the starting of the second firm (B and C) this work of receiving and forwarding rice was entrusted to the new firm for the same remuneration as paid to the local agent previously. In the first year under this new arrangement the total commission paid to the second firm amounted to Rs. 10,000. Can this sum of Rs. 10,000 be added to the

net business income of the first firm of A, B and C for assessment to excess Profit Tax? Can this payment be treated as an item of expense to be disallowed by virtue of sub-section 10(4) (b) of the Indian Income-tax Act? It is requested that the answer to this query would give reference to the authorities on which it is based.

"Less tax."

A. 9.—Taking the point first whether the allowance of the amount of Rs. 10,000 as a business deduction is to be considered as prohibited by sub-section 10(4) (b) of the Income-tax Act, the short point for decision is whether a payment to a firm is payment made to partners of the firm in their individual capacity. Under the Indian Partnership Act, 1932, it is well established that a "firm" is a short collective name for the individuals who constitute the firm and is not a legal entity or an artificial person as a Corporation is. Arguing on this basis, it would appear that the only logical conclusion of the matter would be to treat the payments made to the firm as payment made to the partners. This would render Section 10(4) (b) applicable resulting in the profits of the firm ABC being increased by the disallowance of Rs. 10,000 paid to firm BC.

In view of the above discussion, the point whether the amount of Rs. 10,000 can be added to the income of the firm ABC does not arise.

"NANA"

Case Law

XXIII. The Register of the Members of a company is a public document and I know of no provision in the Companies Act which permits the Directors of a Company or any Officer of a Company to make any alteration to the Register. In a company having an article as under, "The Shares shall be under the control of the Directors who may allot or otherwise dispose of the same only among the existing members but shall not without the consent of the company in General Meeting allot or otherwise dispose of them to outsiders," when five of six directors admitted two new members on applications received from them and when their names had been entered in the Company's Register of Members, it was held that the allotments should be regarded as valid and binding on the company. The applicants were entitled to assume that the Directors were acting regularly and that the sanction of the Company in General Meeting had, in fact, been obtained. That being so, the allotments cannot now be avoided by the Company and the applicants must be regarded as persons who agreed to become members of the Company. At the time when the applicants made applications for shares, there were only six members of this company and all of them were Directors. Five of them were present at the meeting at which the allotments were made. In this case, a meeting of the Board of Directors of the company and the company in General Meeting are two descriptions of one and the same body.

(P. V. Damodara Reddi and another vs. Indian National Agencies, Ltd.—15 Comp. cas. 148.)

XXIV. Where a loan was taken by a receiver of a company to pay off preferential debts under an agreement which provided that he would hypothecate to the lender sufficient properties, it was held that the lender was entitled to a charge in priority to the debenture holders in respect of all the properties subject to the charge, whether fixed or floating, created in favour of the debentures. As against the debenture holders, an agreement to hypothecate is as effectual as an actual hypothecation.

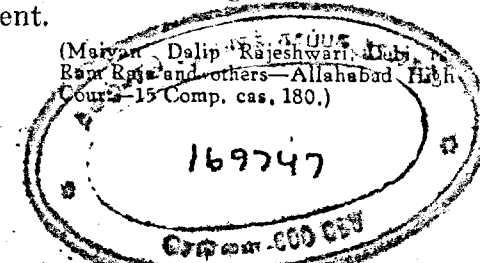
(Lakshman Prasad vs. John and others—Privy Council—15 Comp. cas. 173.)

XXV. A person who is responsible for the issue of a false prospectus commits a tort and by reason of the provisions of section 100 of the Indian Companies Act is under a statutory liability to provide compensation. Article 36 of the Indian Limitation Act must apply to this case unless the tort complained of arises out of the contract for the issue of shares. The contract is between the subscriber for shares and the company.

(Amichand Doss Dwarakadoss vs. T. Manavalan Tirumalpad—15 Comp. cas. 178.)

XXVI. The making of a gift of a fixed deposit from a bank is not the making of a gift of a movable property but is the gift of an actionable claim. The fixed deposit is not a deposit of *specie*. The handing over of a fixed deposit receipt would not be enough and the transfer is not a legal effect without execution of a Registered Instrument.

(Mervan Dalip Rajeshwari, Dabhi, Ram Raju and others—Allahabad High Court—15 Comp. cas. 180.)



XXVII. Where a person was employed as an agent on commission within the meaning of section 182 of the Indian Contract Act, namely, to do any act for another or to represent another in dealings with third parties, clearly his business as a commission agent is a business within the meaning of subsection 5 of section 2 of the Excess Profit Tax Act.

(Bashesar Nath & Co., Delhi vs. Commissioner of Income-tax, Punjab—Lahore High Court—13 I. T. R. 425.)

XXIII. One partner in a firm of three partners decided with the concurrence of the other partners to pay each of them certain sums of money annually for 5 years irrespective of the firm's results on the agreement that he would be sole in charge and owner of the firm's profits or losses. It was held that he purported to acquire the

concern and the annual payment to the other partners must therefore be regarded as in the nature of capital expenditure.

(Ramji Das Jaini & Co. *In re* Lahore High Court—13 I. T. R. 430.)

XXIX. There is no warrant for the suggestion that because an agreement of termination of employment as Manager of a company recites the fact that such Manager resigned his position, he must be deemed to have voluntarily relinquished his post and, therefore, to have forfeited his right to compensation. Explanation (2) to subsection (1) of section 7 of the Indian Income-tax Act deals with the case of termination of employment irrespective of the causes governing the termination.

(P. D. Khosla, *In re*, Lahore High Court—13 I. T. R. 436.)

STUDENT'S CORNER

Balance-Sheet—Audit

(S. P. S. IYER, R.A.)

I am going to deal with the leading principles that should guide the Auditor together with special points that require his consideration which I believe will be found of value to the Accountant-student whose opportunities of gaining experience are somewhat limited.

The scope of a Balance-sheet Audit for a financial year of an "Industrial Corporation" may be said to embrace a verification of the Assets and Liabilities, a general examination of the Profit and Loss Account, and incidental thereto, an examination of the system of accounting.

Before starting an audit, the Auditor should furnish himself with a copy of the Balance-sheet at the beginning of the period to be audited and a comparison should be prepared between this Balance-sheet and that at the end of the fiscal period, so that a comprehensive view may be had of the changes in the figures during the period under review. A statement of the disposition of the profit should then be prepared from this comparative Balance-Sheet as a further aid in impressing the meaning of the figures upon the mind of the Auditor.

Trial Balances of the General Ledger, both at the beginning and end of the periods under review, should be prepared in comparative form and checked with the ledger. The items in the Trial Balances should be traced into the Balance-sheets before the Assets and Liabilities are verified, to prove, among other things, that no "Contra" Asset and Liability has been omitted from accounts, that the Assets and Liabilities have been grouped in the same manner at the beginning and end of the period, and also that the Balance-sheets are in accordance with the books. The disposition of any general Ledger Assets and Liabilities that may have been scrapped, sold, written off, or liquidated during the period under review should be traced and noted in the working papers. Furthermore, a general scrutiny of the General Ledger should be made to see that the accounts, if any, that have been opened and closed during the year have any bearing on the company's financial position at the close of the fiscal period.

The verification of a Balance-sheet should be taken up under the following headings:—

- Cost of Property
- Inventories.
- Accounts Receivable.
- Bills Receivable.
- Investments.
- Cash.
- Deferred Capital Expenditure.
- Deferred charges to operations.
- Capital stock.
- Bonded debt.
- Accounts payable.
- Bills payable.
- Accrued liabilities.
- Contingent liabilities.

- Sinking Funds and Depreciation Reserves.
- Surplus at beginning of period.
- Profit and Loss Account.
- Suspense Account.

The leading schedules to all of the above headings should agree with the figures shown in the Balance-sheet and should provide commonsense notes on the verification work done, and it should always be remembered that it is from such notes that a principal, to a very large extent forms his opinion of the manner in which an audit has been conducted. To add to the value and interest of leading schedules, comparisons between periods are always interesting, as are statistics of percentages, such as expenses to sales, inventories to sales, repairs and depreciation to cost of properties, profits to capital stock, etc.

When an audit is being made for the first time, a brief history of the company should be attached to the working papers, showing the date of organisation, the state under whose laws the company is incorporated, the consideration for which the capital stock was issued, and notes on the composition of the property and surplus accounts, from the date of organisation to that of the beginning of the period to be covered by the audit.

The indexing and filing of working papers appear to receive spasmodic attention by the majority of assistants, but nevertheless, it is safe to say that in the majority of cases the time spent in carefully arranging and indexing working papers in accordance with the final accounts is fully appreciated when the time comes to take up the audit for another year, as anyone who

has followed a careless and slovenly assistant will testify. Furthermore, it is good business practice, as the labour and worry of reconciling working papers with the opening figures at the beginning of an audit is frequently expensive and is not off-set by the few hours saved in avoiding this work at the close of an audit.

In periodical annual audits it is essential to have a permanent file in which should be arranged papers that are used in connection with every audit, such as copies of

mortgages, notes or royalty, agreements as to bonuses and commissions, notes on system, special matters to be attended to in the audit, etc. If this is not done, friction almost certain is to occur with a client, when an assistant unfamiliar with the work, takes up an audit for the first time, as he is sure to ask questions which have been previously explained by the client, and the answers to which should have been noted in the permanent file.

(To be continued)

NOTIFICATIONS.

FINANCE DEPARTMENT

Office of the Examiner of Capital Issues Exemption Order

New Delhi, the 5th December 1945.

No. F. 14 (1)—ECI/45.—In exercise of the powers conferred by sub-rule (9) of rule 94A of the Defence of India Rules and in supercession of the Exemption Order, No. F14(8)—ECI/44 dated the 20th August 1945, the Central Government is pleased to grant exemption from the provisions of the said rule, as follows, namely:—

(a) from the provisions of sub-clause (i) of clause (a) of sub-rule (2), and of sub-rule (4) and sub-rule (7)—

(i) the issue and acceptance of securities other than debentures being on issue made by a person, in the ordinary course of his business and solely for the purposes of that business to another person carrying on the business of banking or to such other person's nominee in respect of advances or over-drafts from time to time granted or to be granted by such other person; and

(ii) charges made under mining leases by the lessees in favour of the lessors charging the assets of a company for the due payment of rents and royalties reserved by the instruments of lease;

(b) from the provisions of sub-rule (6) in so far as such provisions relate to any document publicly offering for sale—

(i) any security issued in British India before the 17th May 1943, and

(ii) any security issued outside British India before that date being a security of a class of which no further issue has been made after that date by or on behalf of the same company without the consent or recognition of the Central Government.

(c) from all the provisions of the said Rule—

the issue of securities by any company not being a banking company or an insurance company or a provident society incorporated as a company, and all transactions relating to securities so issued, provided that the value of the consideration involved in such issue together with the value of the consideration involved in any previous issue of securities, not being an issue covered by clause (a) of this Order, made by such company within the twelve months next preceding such issue shall not exceed in all five lakhs of rupees;

In this clause the expression "the consideration involved" means, in the case of securities without a nominal value, the amount to be raised by the issue of the securities and, in the

case of securities with a nominal value, the sum of the total nominal value and of any premium, entrance fee or other payment which the person subscribing to the securities may be called upon to pay.

(d) from the provisions of sub-rule (8)—

(i) securities the issue of which has involved a contravention of sub-rule (2), sub-rule (4) or sub-rule (5), if such contravention has been condoned under the provisions of sub-rule (6);

(ii) any security transferred by the operation of the law of inheritance or succession or by the decree of a competent court.

In this Order the expression "securities", "banking company", "insurance company" and "provident society" shall have the meanings respectively assigned to them by clause (a) of sub-rule (1) of rule 94A of the Defence of India Rules, Section 277F of the Indian Companies Act, 1913, clause (8) of Section 2 of the Insurance Act, 1938 and Sub-section 1 of section 65 of the Insurance Act, 1938.

A. H. LLOYD,

Examiner, Capital Issues.

ORDINANCE No. IV of 1946.

An Ordinance to enable inspection of the affairs of banking companies to be made in certain circumstances

New Delhi, the 15th January 1946.

Whereas an emergency has arisen which renders it necessary to make provision to enable inspection of the affairs of banking companies to be made in certain circumstances

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5. c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. **Short-title, extent and commencement.**—(1) This Ordinance may be called the Banking Companies (Inspection) Ordinance, 1946.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance

(a) "banking company" means a banking company as defined in Section 277F of the Indian Companies Act, 1913 (VII of 1913);

(b) "Reserve Bank" means the Reserve Bank of India.

3. **Power to Order Inspection.**—Notwithstanding anything to the contrary contained in section 138 of the Indian Companies Act, 1913 (VII of 1913), the Central Government may at any time direct the Reserve Bank to cause an inspection to be made of any banking company and its books and accounts, and to make a report thereon to the Central Government.

4. **Inspection of books and examination of officers.**—On receipt of a direction under section 3, the Reserve Bank may authorise one or more competent persons to make the inspection as aforesaid, and it shall be the duty of every director or other officer of the banking company to produce to any person so authorised all such books, accounts and other documents in his custody or power relating to the affairs of the banking company as the person so authorised may require of him.

(2) Any person making an inspection under sub-section (1) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.

(3) If any person refuses to produce any book, account or other document which under this section it is his duty to produce, or to answer any question relating to the business of the banking company, he shall be liable to a fine which may extend to five hundred rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to fifty rupees for every day during which the offence continues.

5. **Powers of Central Government on receipt of report.**—(1) If

after consideration of the report of the Reserve Bank under section 3, the Central Government is of opinion that the affairs of a banking company are being conducted to the detriment of the interest of its depositors; the Central Government may—

(a) by order in writing prohibit the banking company from receiving fresh deposits, or

(b) notwithstanding anything contained in sub-section (6) of section 42 of the Reserve Bank of India Act, 1934 (II of 1934), refuse to direct the inclusion of the banking company in the Second Schedule to that Act, or if the banking company is included therein, by notification in the official Gazette direct its exclusion from that Schedule:

Provided that the Central Government may cancel or modify any order passed under this sub-section upon such terms and conditions as it may think fit to impose.

(2) If any deposits are received by a banking company in contravention of an order under clause (a) of sub-section (1), every director or other officer of the banking company, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such contravention and shall be punishable with a fine which may extend to twice the amount of the deposits so received.

6. **Publication of reports.**—The Central Government may, after giving reasonable notice to the banking company concerned, publish any report of the Reserve Bank under section 3 or such portion thereof as may appear necessary to the Central Government.

WAVELL,

Viceroy and Governor-General.

CENTRAL BOARD OF REVENUE **Income-Tax**

New Delhi, the 29th December 1945

No. 9.—**Camp.**—In exercise of the powers conferred by Section 49A of the Indian Income-tax Act, 1922 (IX

of 1922), the Central Government is pleased to direct that the following further amendments shall be made in the income-tax (Double Taxation Relief), Indian States Rules, 1939, namely—

1. (i) Add the following clauses to Rule 2—

(e) the expression "corresponding year" in relation to a year of assessment in British India means the year for the purposes of State Income-tax which by order of the Central Board of Revenue shall be deemed to correspond with such year of assessment in British India.

(f) the reference to the lower of the two rates shall where the rates are equal, be construed as a reference to either of those two rates."

(2) For Rule 3 substitute the following rule:

"If any person, who has paid by deduction under section 18 of the Indian Income-tax Act, 1922, or otherwise, Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid for the corresponding year by deduction or otherwise State Income-tax in respect of that part of his income, he shall be entitled to the refund of Indian Income-tax calculated on that part of his income at a rate bearing to the Indian rate of tax or the State rate of tax, whichever is the lower, the same proportion as the Indian rate of tax bears to the sum of the Indian rate of tax and the State rate of tax:

Provided that where in respect of that part of the income relief has already been obtained under this rule on account of taxation in another State or further relief is admissible in British India on account of taxation in the United Kingdom or Ceylon, the refund shall be so regulated that together with such other relief the aggregate relief shall not exceed half the Indian rate of tax.

2. The amended Rules shall apply to assessments made in British India for and from the year beginning on the 1st April 1942.

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N. GOPALA IYER,

Secretary.

I. B. N. 101.

