513

513

The Registered Accountants Journal

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

Edited by:
K. V. SRINIVASAN, B.Sc., G.D.A., R.A.

Office of Publication:
161, Mount Road, Madras

Vol. I. No. 8 | MARCH 1946 | *Annual Subscription* Indian Rs. Six, Foreign Sh. Ten

Published on the 25th of Every Month

The Registered Accountants *Journal*

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

Vol. I | MARCH 1946 | No. 8

CONTENTS

1. Standardisation of Audit Work. We are gratified to note that steps are being taken by the Society of Auditors, Madras to bring about uniformity and standardisation of audits, audit notes and Reports and to fix the minimum fees. We welcome the move and we trust all members of the Society and all Accountants in the Province will co-operate for ensuring the success of the move. We have been urging on Accountants to take up these steps and we now urge them equally to support wholeheartedly the Society in this activity.

Apart from the steps taken by the profession in these respects, we believe that the public should be educated to realise the importance of the works so standardised by the Profession. It is they who derive cent per cent benefit from these moves of the Society in that they would be using the prestige of the Registered Accountant in settling their Income-tax assessments without undue harassment or inconvenience to them. The role of the Accountants ought to be made public by every means at the command of the Society. They would be right by convening a series of Auditors' Conferences all over the country for this purpose. We are all aware of the immense influence that such conferences bring to bear on the Public at large and it would be a legitimate means of publicity for the profession. Both the profession as well as the public benefit by these regional and All-India conferences. We are not suggesting anything novel or unethical. Many of our Readers may not be aware of the fact that these meetings and conferences are systematically held in United Kingdom and elsewhere and we find glowing reports of these occurrences, reported in foreign Accountancy Journals. We shall not, therefore, be departing from the normal methods of publicising our profession. If anything, this is essential for our country at this initial stage of industrialisation.

2. Central Budget.—This year's budget of the Government of India, although not sensational in its recommendations, contain some welcome features. Being the first post-war budget, quite a number of the features of war-time financing continue to exist. The Excess Profits Tax, though abolished, will get effective only in subsequent years as the Profits till 31-3-1946 would be assessable. We support the Government wholly in abolishing this tax at this stage, as we believe, by the continuance of the levy they might have been put to loss by having to pay back the tax collected in previous years, in case of deficiencies arising during the current year. The increase in the Earned Income Allowances will be welcomed by all. The allowances in respect of Depreciation of new Machinery and new Buildings are bound to help industrialising the country, although by taking a longer view it is not difficult to see who benefits by this move in the present state of high prices of foreign machineries and capital equipment. The clubbing of the surcharge in the basic tax does not alter the rates of taxation and we can probably ignore the view that it fixes a higher rate of taxation for all future years, by pointing out the universal hope that transfer of political power at the Centre to Indian hands is imminent, the taxation policy of the new Government being unknown and unpredictable. The allowance of expenses on Scientific research is now conceded. The taxation on Companies has been brought down to a level which ought to be appreciated by all, the non-refundable corporation tax being kept at only one anna per Rupee. However, even the refundable portion cannot be fully obtained on account of the taxation provisions regarding Dividends. We consider this latter as sufficient safeguard against distribution of high dividends and the consequent diversion of funds into unprofitable channels by the public. The Budget as a whole ought to be welcomed by all.

SPECIAL ARTICLES

Income-tax Assessments

(Nature of enquiry and material on which they should be based)

(T. V VISWANATHA AIYAR, B.A., B.L.)

Assessments under the Indian Income-tax Act are initiated by either a general notice under sub-section (1) of section 22 or by a special notice under sub-section (2) of the same section.

Assessments are of two kinds: those that are made on the merits

under sub-sections (1) and (3) of section 23 and those that are made in default under sub-section (4). There cannot be an assessment on the merits unless there is a return made in pursuance of section 22. Sub-section (1) of section 23 states that if the Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that the return made is correct and complete, the Officer shall assess the total income and determine the tax payable on the basis of such return. If, however, the Officer is not so satisfied without requiring the presence of the person who made the return or the production of evidence, then under sub-section (2) of section 23 he is bound to serve a notice on the person who made the return either to attend the office or to produce or cause to be produced any evidence on which such person may rely in support of the return. Now what evidence should be led by the assessee and what form it should take is left solely to the option of the assessee.

If the Officer requires any particular evidence he has to use his powers under sections 23 (3), 22 (4) and 37. Under sub-section (4) of section 22, the Income-tax Officer is given the right to serve on a person who has made a return under sub-section (1) of section 22 or on whom a notice has been served under sub-section (2) of section 22, to produce or cause to be produced such accounts or documents as the Income-tax Officer may require. Under this provision the Income-tax Officer is made the sole arbiter of what he requires as a piece of relevant evidence. It should be noted that while as regards documents, there is no limitation as to time, as regards accounts they should not relate to a period more than three years prior to the previous year. It is however clear that either the accounts or the documents should be relevant and can only relate to those which belong to the assessee and within his control or possession and he is capable of producing them and that a reasonable opportunity should be given to comply with the requirements. For instance the fact that the accounts or documents belong to a friend of the assessee cannot make them within the control or possession of the assessee. (C.I.T. Bombay *vs.* Bombay Trust Corporation, 1938 I.T.R. 445 = 57 I.A. 49.) It should be further noticed that a notice under section 22 (4) is not compulsory and there is nothing preventing the issue of such a notice at any stage: before or after a return; prior to, along with or after a notice under section 23 (2) and any number of times before the assessment. The Income-tax Officer cannot however compel the assessee to produce the accounts or documents if he declines to produce. In case of default he can only proceed under section 23(4) and there is no other power.

Section 37 vests the Income-tax Department with the powers of a Civil Court under the Code of Civil Procedure when trying a suit in respect of certain specified matters, viz., enforcing the attendance of any person and examining him on oath or affirmation, compelling him to produce documents and for the issuing of commission for the examination of witnesses. To the extent mentioned in section 37 the Officer acts in a quasi judicial capacity and he has naturally therefore to conform to the elementary rules of judicial procedure and conduct himself accordingly. In particular it has been held that he cannot allow others including his superior officers to take the conduct of the case out of his hands. (See Dinshaw Darabshaw Shroff *vs.* C.I.T. 1943 I.T.R. 172). Section 38 permits the Income-tax Officer or the Assistant Commissioner power to call for information in respect of matters specified therein and penalties are provided for failure to comply. (See section 51 (c)). Section 39 empowers the inspection of and taking of copies of the Register of members, debenture holders or mortgagees of any Company or the entries in such register. The Income-tax Officer has no power to go into the premises of an Assessee or forcibly remove the books or insist upon inspecting them or trespass into his premises. Achruram *vs* The Crown (I.L.R. 7 Lahore 104 = 2 I. T.C. 197.)

Assessments on Merits.—When the assessee complies with the terms of the notice under section 23 (2) and the assessment has got to be made under sub-section (3) the Income-tax Officer is bound to hear the evidence which the assessee may desire to produce in support of his return and if in the course of the enquiry the Income-tax Officer considers that additional evidence should be produced, he is authorised to complete the enquiry by taking such evidence after specifying the points requiring elucidation. After he has received the evidence produced by the assessee and also the evidence if any which he himself called for on the points specified by him he must assess the income on the material produced before him. He has no right in such cases to make the assessment to the best of his judgment. It has also been held in Seth Gurumukh Singh and another *vs.* Commissioner of Income-tax, Punjab (1944 I.T.R. 393) by a bench of five Judges of the Punjab High Court, after an exhaustive consideration of the question that while proceeding under sub-section (3) of section 23, the Income-tax officer is not bound to rely on such evidence produced by the assessee as he considers to be false and if he proposes to make an estimate in disregard of the evidence, oral or documentary, let by the Assessee he should in fairness disclose to the assessee the material on which he is going to found that estimate. The officer is not however debarred from relying on private sources of information which sources he may not disclose to the assessee at all. In case he proposes to use against the assessee the result of any private enquiries made by him he must communicate to the assessee the substance of the information so proposed to be utilized to such an extent as to put the assessee in possession of full particulars of the case he is expected to meet and to further give him ample opportunity to meet it, if possible.

The question has often been raised regarding the nature of the enquiry before the Income-tax Officer and the material on which he can act in making the assessment and in particular whether he can act only on material which is evidence within the meaning of the Indian Evidence Act. The decided cases are not quite uniform. In some of them the whole enquiry conducted under this sub-section is considered to be in the nature of a judicial enquiry and in some others the emphasis is on the confidential nature of the proceedings held by the Income-tax Officer while in some others a middle course has been favoured, stress being laid on the necessity

of the Income-tax Officer conducting himself in accordance with the rules of justice, equity and good conscience. Emphasis has also been laid on the use of the word "evidence" in section 23 (3) instead of the word "information" and on that footing the argument has been advanced that evidence can only mean legal evidence. The word "required" has also been interpreted as "required as a piece of relevant evidence." It is unnecessary for the present purposes to go into the nice distinctions drawn in the several decisions, as all the decisions are agreed that the Income-tax Officer does not act like a Court and the proceedings before the Income-tax Officer are not judicial proceedings in the ordinary acceptation of the term and that they neither take the form of the trial of a suit nor are they proceedings *inter parties* the Assessee and the Income-tax Officer. It has been held that nowhere does the Act require that the Income-tax Officer should try an issue or issues as in a suit between the assessee and himself and by calling his own evidence and marshalling and exhibiting his documents with a right to know the Income-tax Officer's source of information and the right to inspect his documents or cross-examining his witnesses.

There is nothing stated in sub-section (3) of section 23 about the material on which the assessment must be based. But though the Income-tax Officer has very wide powers and is not fettered by the technical rules of evidence and pleadings there is one overriding restriction on his judgment and that is he must act honestly on the material however inadequate before him and not vindictively, capriciously or arbitrarily. An assessment under sub-section (3) of section 23 cannot be worse than one under sub-section (4) which contemplates a more summary method of assessment.

(To be continued)

The Central Budget

1946-47

Extracts from the Finance Member's Speech

Taxation Enquiry Committee

Before I explain the taxation proposals for next year, there is one further matter to which I would like to refer. A widespread desire has been expressed for the appointment of a committee to examine and report on the present tax structure and taxation incidence, with special reference to their effect on trade, industry, employment, standard of living, savings and capital formation. The Government appreciate that more than 20 years have elapsed since the last general enquiry into taxation in India was held, and that the situation has in many ways changed materially since then, particularly during the six years of war. Not least of the changes has been the re-orientation of economic thought in the interval. With the cessation of hostilities and an era of intensive development begun, which will require constructive planning of taxation with a view to ensuring the most effective use of the taxable resources of the country, the present may reasonably be regarded as ripe for a fresh comprehensive taxation review. I propose, therefore, to set up a Taxation Enquiry Committee in the near future. Since one important object of the proposed enquiry would be to secure, as between the various classes of tax-payers, an equitable distribution of the burdens of taxation, it would seem to be essential that, as in the case of the Taxation Enquiry Committee of 1924, the scope of the enquiry should extend to the whole field of taxation—Central, Provincial and local. While it would not be appropriate for the Committee to concern itself with the question of the distribution of taxable resources between the Centre and Provinces, it should cover the harmonisation of Central and Provincial taxation where experience has shown conflict or overlap to exist in their respective spheres, as defined in the Constitution Act. The present lack of uniformity in the incidence of taxation as between Provinces, illustrated by the varying rates of sales tax, octroi, property tax, motor taxation etc., could be dealt with by the Committee. The main purpose of the enquiry would, however, be to ascertain what adjustments or modifications of the taxation system of the country as a whole would be required and could, from the practical administrative point of view, be introduced in order to produce a properly balanced and scientific tax structure, fair in its incidence and adequate to the needs of a forward development policy, without deterrent effect on initiative and private enterprise, and with due regard to the administrative requirements for the prevention of tax evasion. The Provinces are in favour of an enquiry of this nature. My provisional view is that the Committee should be predominantly non-official in character and that it should be an expert rather than a representative body, although care should be taken to obtain the views of all the interests affected,—industry, commerce, agriculture, labour, the consumer, the ordinary tax-payer and lastly, the Administration, both Central and Provincial. Above all, it should not be unwieldy. There appears to me to be in India a tendency to set up not only too many committees but also committees which are quite unmanageable from the point of view of size. I shall greatly welcome the views of Hon'ble Members as to the scope and composition of the Committee.

I now pass to my taxation proposals for next year.

Excess Profits Tax.

Here is my own contribution to its solution. First, I propose to discontinue the Excess Profits Tax on earnings arising after the 31st March 1946. The only justification for E.P.T. as a tax is the emergency which called it into being. By all the canons of taxation doctrine it is a thoroughly bad tax. It is rough and ready in its operation; it is unfair in its incidence and, beyond a certain point, it is a direct inducement to inefficiency. Except that I, as tax gatherer-in-chief, cannot refrain from casting a longing, lingering look behind at its high yield, none of us will, I think, mourn the passing of the Excess Profits Tax.

It will, of course, be realised that the discontinuance of the tax will not, of itself, affect the revenue of the coming year nor give any immediate relief to the class of tax-payer to whom it applies, since the tax will still be payable in respect of all excess profits earned up to the 31st March 1946. The scheme of compulsory deposits will also remain in force to the end of the E. P. T. period.

As regards the refunds of E. P. T. deposits, they will be sanctioned in advance of the date for which the law provides, on conditions that they are not distributed as dividends to shareholders but are required for the provision or replacement of buildings, plant or machinery.

When I remind the House that E. P. T. will yield Rs. 90 crores in the current year and is estimated to produce Rs. 75 crores in the coming year, Hon'ble Members will be able to measure the loss to revenue and the benefit to industry which the abandonment of E. P. T. implies.

One last word about E. P. T. Concern has been expressed about the losses and expenditure which may arise in the period of transition from war-time to peace-time conditions and which may involve hardship if they are not allowed against the profits of the final E. P. T. chargeable accounting period. This question is under consideration and, when it is known what is the actual extent and nature of these hardships, then will be the time to consider appropriate legislation.

Special initial depreciation.

The next relief to industry which I propose is to revive the proposals which were dropped last year to grant special initial depreciation allowances of 10 per cent on new buildings and of 20 per cent on new plant and machinery and to allow for income-tax purposes expenditure on scientific research. In addition, I propose to widen the scope of what is called the obsolescence allowance, so as to make it include the loss of the asset by destruction or demolition and also to extend it to buildings. These proposals will cost Rs. 2 crores.

Amalgamation of surcharge with basic rates.

I now revert to the direct taxation field, but before dealing with it as it specially affects industry, I should like to mention a proposal which will affect not only all classes of tax-payers but also Central and Provincial Revenues, namely, the amalgamation of the surcharges on income-tax and super-tax with the basic rates. This amalgamation is estimated to benefit the Provinces to the extent of Rs. 12¾ crores at the expense of the Centre.

Tax on companies.

Coming back to industry, the total of the present rates of income-tax and super-tax on a company is 7¾ annas. I propose to reduce this total of 7¾ annas by 1¾ annas to 6 annas, by a reduction of 2 annas in the super-tax and an addition of ¼ anna to the income-tax. This is estimated to cost Rs. 7 crores. For the past two years the Finance Act has contained a provision giving a rebate of super-tax to companies at the rate of one anna on all sums not distributed as dividends. This, in effect, imposed an extra tax at the rate of one anna on all sums distributed as dividends. I think that circumstances now warrant the introduction of a new method for discouraging the distribution of dividends. In my view, a reasonable distribution is something which the shareholder has a right to expect and which should not attract a penal rate of tax. I am, therefore, proposing that, excluding dividends payable at a fixed rate, sums equal to 5 per cent on the capital of the company, including reserves and equal to 30 per cent of the total income, may be distributed without attracting more than the 1 anna rate of super-tax. Dividends above that datum line will become liable to additional super-tax at steepening rates. I hope that this provision will keep the distribution of dividends within reasonable bounds and encourage the ploughing back of profits into the business. This is estimated to yield about Rs. 1½ crores.

Income-tax Relief for new buildings.

Before turning to the non-company direct tax-payer, it will be appropriate to mention at this stage another and somewhat novel proposal which affects both classes. I have referred more than once to the possible emergence of deflationary tendencies consequent upon the very heavy fall in military expenditure, and I reminded the House that, owing to the difficulty experienced by our industries in obtaining adequate quantities of capital equipment from abroad, they would not be able to do a great deal next year to replace the economic activity engendered by the vast military expenditure of recent years. There is, however, one direction in which the private sector of the national economy can do much to help. I mean, of course, building, which has been almost at a standstill, except for war purposes, for the past five or six years. The great advantage of a large building programme is that the ratio of labour costs to total costs is high and so, therefore, is the employment factor. Apart from the offer of subsidies for working-class dwellings which I have already mentioned, Government are doing all they can to assist by increasing the free availability (but by this expression I do not, of course, mean free of cost) of bricks, timber, cement and steel. But so important do I regard private building as an anti-deflationary activity that I have felt justified in going further and in making a contribution in the fiscal field. I am, therefore, proposing some income-tax relief where new buildings are begun and completed within the next two years. For residential buildings, I propose a two years' income-tax exemption and for buildings used for the purposes of the business, profession or vocation I propose that the initial depreciation allowance should be 15 per cent instead of 10 per cent. These proposals are contained in a Bill to amend the Income-tax Act which is being put before the House. As next year's estimates are not likely to be affected, no provision has been made on this account.

Income-tax on lower incomes and earned income relief.

And now I turn to greet the ordinary direct tax-payer. * * * In my judgment, the steep rise in direct taxation inseparable from the war has borne more heavily on the man of moderate means and particularly on the man with a moderate fixed income than on almost any other class of tax-payer. I think the time has come to give him some relief. I propose to do this in two ways. First, by reducing the rate of tax in the lower ranges and secondly by increasing the earned income allowance. As to the first, I propose to reduce the rate on the second income slab of Rs. 3,500 from 15 pies to 12 pies, and the rate on the third slab of Rs. 5,000 from 2 annas 1 pie to 2 annas. These two changes will cost about Rs. 1½ crores. As to the second I propose to raise the earned income allowance from one-tenth of the earned income, subject to a maximum of Rs. 2,000 (in terms of income), to one-fifth, subject to a maximum (in terms of income), of Rs. 4,000. This relief will cost about Rs. 3½ crores.

I propose to take a further and, as I think, a logical step in carrying over the differentiation of treatment between earned and unearned income into the super-tax range. At the same time, I propose to increase the number of slabs in incomes subject to super-tax, the result being a more gradual steepening of the rates, although the rates will be more severe on the largest incomes than at present. The differentiation in favour of earned income is one anna in the rupee between Rs. 25,000 and up to Rs. 2 lakhs and half an anna between Rs. 2 lakhs and Rs. 5 lakhs. On the balance above Rs. 5 lakhs there is no differentiation. This proposal is estimated to yield about Rs. 75 lakhs. On merits, and as a partial offset to the loss of revenue involved in the three changes which I have just described, I propose to increase the rate of income-tax on the balance of income above Rs. 15,000 from 4 annas 9 pies to 5 annas. This will yield about Rs. 3¼ crores.

Other minor changes.

With two other and relatively minor changes I shall be done with my proposals relating to direct taxation. The first is a reduction of the rate on life insurance companies from 5 annas 3 pies to 5 annas. The second relates to the discontinuance of the provision for funding a portion of the tax in the case of incomes up to Rs. 6,000. The reductions in the rates on the lower slabs and the increased earned income allowance now proposed take away the justification for this provision. Salaried assessees, however, have to be given the benefit of the provision in the coming year, since they came under the scheme one year later than other assessees. These two proposals are estimated to cost Rs. 25 lakhs.

STUDENT'S CORNER

Balance-Sheet—Audit

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

(Continued from page 83.)

The following notes will be of value in outlining a suitable programme of audit for inventories:—

1. A thorough test of the accuracy of the footings and extensions should be made.

2. The inventories should be compared with stores ledger, work-in-progress ledgers and finished product records as to quantities, prices and values.

3. Inquiries should be made as to the number of times the quantities on hand, as shown by the stores and finished product Ledgers, have been compared with actual quanti-

ties on hand during the year. Unless they have been compared at least twice, the accuracy of the quantities shown by the ledgers should not be accepted without careful investigation.

4. A satisfactory verification of quantities in the case of a company that does not operate a cost system is almost impossible and the auditor frequently has to be satisfied with a certificate from responsible officials, but in addition to certificate, the auditor should carefully test the type-written inventory sheets with the tickets cards or sheets that show the original counts.

5. When the cost system of a company does not form part of the financial accounting scheme, there is always a possibility that orders might be completed and billed and not taken out of the work in progress records. Especially is this the case when reliance is placed on such records to the extent that a physical inventory is not taken at the end of the period to verify the information shown therein. In these cases, the sales for the month preceding the close of the fiscal year should be carefully compared with the orders in progress as shown by the inventory to see that nothing that has been shipped is included in the inventory in error.

6. As a check against obsolete stock being carried in the inventory in error, the detailed record for stores, supplies, work-in-progress and finished products should be examined and a list prepared of inactive accounts, which should be discussed with the company's officials and satisfactory explanations obtained.

7. The inventories should be valued at cost or market prices, whichever is the lower at the date of the Balance Sheet.

8. It will generally be found that inventories are valued at the average prices of raw materials and supplies on hand at the end of the period. These prices should, however, be compared with the latest invoices in order to verify the fact that they are not in excess of the latest cost prices, and also with the trade papers, to see that they are not in excess of market values.

9. In verifying the prices at which the work-in-progress is included in the inventory a general examination and test of the cost-system in force is the best means of doing this work satisfactorily. Very few points of principle, as a rule, arise in connection with the distribution of raw materials, stores, and pay-roll, but the distribution of burden is one that should receive careful consideration; the main points to be kept in view are :—

(*a*) that neither selling expenses, interest charges nor administrative expenses are included in the factory burden, and

(*b*) that the burden is distributed over the various departments, shops and commodities on a fair and equitable basis.

10. No profit should be included in the prices of finished products and the valuations should be based upon material, labour and factory burden costs. The price lists should be examined to see that the cost price of finished products are below the selling prices, after allowing for trade discounts, and if they are not, a reserve should be set up for this manufacturing loss.

11. A certificate should be obtained from the officials of the company certifying to their belief in the accuracy of the inventories, and stating that neither obsolete nor unsaleable stock is included therein.

12. A careful analysis should always be made of the Inventory Adjustment Account, and no matter how scientific a system of factory accounting may be adjustments frequently require to be made for prices and for discrepancies occurring between the actual quantities of stock on hand and those shown by the books. Burden rates also require frequent adjustment. Such differences in lieu of a better place to include them are usually brought together in an "Inventory adjustment account", the balance at the debit or credit of this account at the end of each month being transferred to profit and loss. It will be readily appreciated that a careful examination of this account will reveal the weakness of the system, and will probably provide information that may be of material value in deciding upon the accuracy of the Inventory as a whole.

13. The receiving records should be examined for the two weeks previous to the close of the fiscal year so that the auditor may satisfy himself that all materials received during that time have been duly included in the inventory and the corresponding liabilities taken up therefor.

In the case of a company whose cost system does not form part of the accounting scheme, the sales records for the last two or three weeks of the fiscal period should be examined to verify the fact that no billed goods have been included in the inventory.

14. In the case of companies manufacturing large contracts it is frequently found necessary to make partial shipments thereof. The question then arises as to whether it is permissible to take up profits on these partial shipments. As a general rule it may be stated that no profits should be taken upon partial shipments, in as much as the actual cost thereof is not known until the order is completed, and while it may be estimated that a profit will ultimately be made, yet conditions such as strikes, delays in delivering material, war, etc., cannot be definitely foreshadowed. In cases where profits are included on partial shipments, full details of such transactions should be included in the working papers and brought to the notice of the principal in charge of the work.

15. The selling prices for contract work in progress should be ascertained from the contracts and, if necessary, reserves should be established for manufacturing losses on contracts in progress.

16. If a company has discontinued the manufacturing of any of its standard products during the year, the inventory of such products should be carefully scrutinised and, if unsaleable, the amount should be written off.

17. The inventary should be scrutinized to see that no machinery or other material that has been charged to plant is included therein. This remark would only apply to companies that do not operate balancing cost system.

18. Partial deliveries received on account of purchase contracts should be verified from certificates from the contractors, both as to quantities and values.

19. Advance payments on account of purchase contracts for future deliveries should be shown under a separate heading in the Balance Sheet.

20. It is not customary to deduct cash discounts from the inventory but this should be done when it is a trade practice to do so.

NOTIFICATIONS

Government of India
DEPARTMENT OF COMMERCE

New Delhi, the 2nd February 1946

Notification

REGISTRATION OF ACCOUNTANTS

No. 1-A (8)/45.—In exercise of the powers conferred by sub-section (2) of Section 144 of the Indian Companies Act, 1913 (VII of 1913), the Central Government is pleased to direct that the following further amendment shall be made in the Auditor's Certificates Rules, 1932, the same having been previously published as required by the said sub-section, namely :—

To rule 27 of the said Rules, the following proviso shall be added, namely :

"provided that if the Central Government is satisfied that a candidate has not availed himself of the concession of appearing only for the remaining Group by reason of his absence on military duties in connection with a war in which His Majesty's Government is involved or by reason of Occupation of Burma or the Far East by the Enemy, he shall be allowed to take the chances within two years of his release from war service or within two years of re-occupation of Burma or the Far East as the case may be."

Y. N. SUKTHANKAR,
Joint Secy. to the Govt. of India.

No. 1-A (9)/45.—In exercise of the powers conferred by sub-section (2) of section 144 of the Indian Companies Act, 1913 (VII of 1913), the Central Government is pleased to direct that the following further amendment shall be made in the Auditor's Certificates Rules, 1932, the same having been previouly published as required by the said sub-section, namely :—

In sub-rule (1) of rule 16 of the said Rules, after the word "Accountants" the following shall be inserted namely :—

"or by reason of occupation of Burma or the Far East by the Enemy"

Y. N. SUKTHANKAR,
Joint Secy. to the Govt. of India.

CENTRAL BOARD OF REVENUE

No. 27(8)-I. T./46

Circular No. 2 of 46.

New Delhi, the 8th March 1946

CIRCULAR

Subject : —*Allowance in assessing business income—legal expenses in connection with sales Tax Proceedings.*

The liability of a person to Provincial Sales Tax arises from his carrying on business as a seller of goods and this liability has to be met irrespective of whether profits are earned or not. It is therefore a liability which arises in the course of business and any expenditure incurred in protecting the business from excessive demands in respect of such liability is an expenditure wholly and exclusively laid out for the purpose of the business. Such expenditure is not in the nature of capital expenditure or personal expenses. Therefore, the expenses incurred in original proceedings for assessment to Sales Tax as also in appeals arising from such proceedings should be allowed as deduction in Income-tax assessments. The expenses incurred by a person in defending himself in any proceedings for breaches of any law relating to Sales Tax should not of course be allowed as it is not an incident of business to commit breaches of law.

S. RANGANATHAN,
Secretary, Central Board of Revenue.

Reg. No. M. 4709

Edited & Published by Mr. K. V. Srinivasan, at No. 161, Mount Road, Madras
Printed by Mr. R. Ravaimanickam at Gordon & Co., Ltd., (Gordon Press),
768-770. High Road, Triplicane, Madras.