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The
Registered Accountants'
Journal

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

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Apprentices—There appears to be a large volume of controversy going on in the United Kingdom on the present system of 'apprenticeship' and 'premiums' in the making of Accountants. We noticed one such criticism in the correspondence columns of 'The Accountant' characterising the Institute of Chartered Accountants as anachronistic in two respects, viz., the hard and fast rule of articleship as the only means of attaining qualifications to present oneself at the examination of the Institute, and the bar in the case of any non-practising member of the Institute from becoming a Fellow. The second criticism is inapplicable to the Indian system of Registration of Accountants. Although there are a good many in the practising field who do not relish the idea of non-practising Accountants being entitled to be Registered Accountants. They argue that the actual experience gained by a practising Accountant is so varied and complex that no one who has not gone through the practical difficulties can be considered on an equal footing with them. In their opinion the mere passing of examinations and undergoing of articleship cannot be considered as sufficient. Taking this view as properly founded, we are unable to explain the large number of Accountants who choose to enter the field on their own account, soon after qualification. The bigger firms, whose partners have gone through the difficulties of practice

and who have gained ripe experience in practical work and problems should tackle this question. They should so adapt their policies that the 'freshers' are absorbed in their offices with a definite provision, however remote it may be, of one day raising up to be a partner. We see no other way for maintaining a high standard of professional skill and efficiency.

As regards the criticisms on the rule enforcing apprenticeship, we feel that methods may be devised to get over the hurdle of Premiums, but to entirely take away apprenticeship provisions in order to give opportunity to many a poor genius who find themselves unable to pay any premium will lower the standards of Registered Accountants. Provisions now exist under the Indian system for such candidates who cannot afford Articles to complete the course by serving a prescribed period as audit clerks. The provisions relating to the difference in the periods of training under Articles and as an Audit clerk may be criticised for the reason that the training under both the systems are identical and therefore no case exists for giving concessions for those who can afford to pay for articles. We consider, however, that the existing provisions are necessary in order to deter as many

as possible from the not-well-to-do classes from joining the ranks of the profession. The strenuous duties of a Registered Accountant and the varied opportunities for making easy money will naturally tempt a poorer accountant to a greater extent to depart from the standards of Professional etiquette and honesty. An obvious safeguard is certainly to restrict the admission to the profession to the well-to-do classes, who can afford to adhere to the rules of the profession even if it should affect them adversely financially. Deserving candidates should, of course, come up in the profession irrespective of their position in Society, and under the existing provisions, enlightened principals can always encourage these people, and we believe many Accountants do give concessions to such of their staff as they think deserving and useful. Should the Government modify the Auditor's Certificates Rules enabling all Registered Accountants with a certain number of years standing in the profession to take and train apprentices the number of articulated pupils would rise considerably and the 'premiums' at present charged would be less. There would thus be no necessity at all for us in this country to debate the problems of 'premiums'.

SPECIAL ARTICLES

Income-tax Assessments

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

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

(Continued from page 89)

an appeal is now provided in respect of assessments under sub-section (4) of section 23, it is highly desirable that the

Appellate Authority must be in a position to know on what material the assessment is based and if the basis of the order is not disclosed

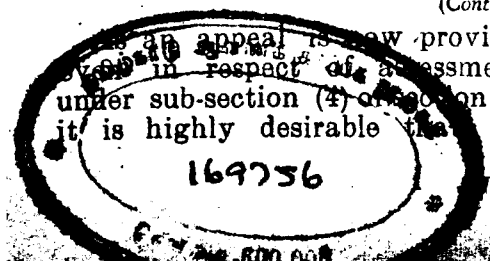
in the order itself it means that the Appellate Authority will be handicapped and will have to refer the case back. From every point of view it is desirable that the Income-tax Officer should communicate in his order the material on which he has made his assumption though he may not be compelled to do so.

There has been of course a difference of opinion in regard to the question where even in cases where the books of account are held to be not genuine and therefore rejected, the Income-tax Officer can have recourse to the proviso to section 13. The majority of the Lahore Full Bench, Din Muhammed, Sale and Abdur Rahaman, JJ. hold, following previous decisions of the Lahore Court and the decisions of some other High Courts that the proviso to section 13 applies and the minority, Mahammed Munir, J. and Harries, C. J. hold that the proviso is inapplicable and the Income-tax Officer has to discover the probable income of the assessee otherwise than by resorting to the proviso to section 13. The minority preferred to follow the decision of the Madras High Court in Gunda Subbayya vs. C. I. T. Madras, (reported in 1939 I. T. R. 21) in which the Court held that Section 13 adds nothing and takes nothing away from section 23(3). Whichever view is taken, the result arrived at seems to be practically the same.

It will therefore be seen that information derived behind the back of the Assessee and not revealed to him on which conclusion is based against him cannot be construed as evidence against him. Such a procedure offends against

the principle of natural justice and cannot be held to be evidence within the meaning of section 23 (3). Although the legislature did not intend that the evidence should fulfil all the technical requirements of the Indian Evidence Act, mere conjecture, surmise or assumption of facts as distinct from proved circumstances cannot form the basis or material for assessment. What is required is evidence and not mere conjecture or assumption. A fair and proper opportunity to show that the material on which the Income-tax Officer seeks to act is wrong or inaccurate is essential in order to check whimsical or arbitrary opinions and assumptions however honestly held or made.

Default Assessments: An assessment under sub-section (4) is one which is made on default and comes into operation (a) owing to failure to make a return required by a notice under sub-section (2) of section 22 or a return or a revised return under sub-section (3) of section 22 or (b) owing to the failure to comply with all the terms of a notice under sub-section (4) of section 22 or (c) having made a return failure to comply with all the terms of sub-section (2) of section 23. It will be noticed that no default assessment can be made for mere failure to comply with the general notice under sub-section (1) of Section 22. Such default is not even an offence under Sec. 51. Where the default assessment has got to be made, the Officer is directed to make the assessment to the best of his judgment and their Lordships of the Privy Council have stated in Commissioner of Income-tax, C. P. vs. Badridas Ramrai Shop (1937 I.T.R.170 = (1937) 64. I.A.102 = I.L.R.1937 Nagpur 191)



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that even in a case under sub-section (4) of section 23 where the Income-tax Officer has unfettered powers and unlimited discretion "He (the Income-tax Officer) must not act dishonestly or vindictively or capriciously because he must exercise judgment in the matter. He must make what he honestly believes to be a fair estimate of the proper figure of assessment, and for this purpose he must be able to take into consideration local knowledge and repute in regard to the assessee's circumstances and his knowledge of previous returns by and assessments of the assessee and all other matters which he thinks will assist him in arriving at a fair and proper estimate: and though there must necessarily be guess work in the matter it must be honest guess work. In that sense too the assessment must be to some extent arbitrary." Their Lordships however proceed to say that if the Officer's order could be shown to have been arrived at without an honest exercise of judgment, it may be revised or reviewed. Similarly in Commissioner of Income-tax, Bihar and Orissa vs. Sir Kameshwar Singh (1933) I. L. R. 12 Patna = 318 1. I. T. R. 94) their Lordships observed "that even a guess could not be made without evidence".

General: Thus within the limitations mentioned above the material on which the Income-tax Officer can act in regard to assessment may be grouped as follows:

(a) Material Furnished By the Assessee Himself:

Returns, Profit and Loss Statements, Balance Sheets, Audit Reports, Accounts, Documents, Previous Returns, Explanations offered from time to time, Oral evidence and such other material oral and documentary which have been placed by the Assessee or on his behalf.

(b) Information which the Officer has gathered:

- (1) By examination of account books and documents pursuant to section 22 (4)
- (2) Information obtained by the examination of persons as witnesses and production of documents (section 37)
- (3) Commission Examination (Section 37)
- (4) Information obtained under Section 38
- (5) Information received under sections 19-A, 20-A and 21 from Returns.
- (6) Information gathered from inspection and taking of copies from Company's books (section 39)
- (7) Information obtained from persons likely to know, general repute and previous assessments and records.
- (8) Information gathered from oral evidence, accounts and documents of third parties and private enquiries.

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. 18. The Income-tax Appellate Tribunal decides that the Income-tax Officer should revise his order in the light of certain directions given by them. Can there be an appeal against this revised order and if so, to whom? "A.B.S."

Q. 19. I shall be obliged if any of your readers can let me know the

usual percentage of Depreciation allowed by the Income-tax Department on Cinema furniture. I believe they should be treated on the same basis as the hotel furniture where the percentage of Depreciation allowable is fixed at 9 per cent.

"S.V.S."

ANSWERS TO QUERIES.

Q. 12. Appointment of Directors of a Company—Section 83-B(ii) of the Indian Companies Act reads that "the Directors of the Company shall be appointed by the members in general-body meeting." Section 87 (c) specifies that the directors, if any, appointed by the Managing Agents shall not exceed in number $\frac{1}{3}$ of the whole number of directors. I would like your readers' views, how any director can at all be appointed by Managing Agents in view of Section 83-B(ii) cited. "K.B.R."

A. 10. According to sub-section (1) (ii) of Section 83-B of the Indian Companies Act 1913, "In default of and subject to any regulations in the articles of a company, the directors of the company shall be appointed by the members in general meeting". The Articles of association of companies managed by managing agents usually provide an article giving power to the managing agents to appoint certain

specific number of persons as directors. If such a provision is not contained in the articles of a company, the managing agents cannot validly appoint any director. If the articles do provide as aforesaid, there is no inconsistency between the sections 83-B (1) (ii) and 87-I. "M.S.S."

Q. 13. A private limited Company has got nearly 25 members. It has a Board of Directors consisting of five members. The Company in its special General Meeting passed a resolution appointing all the members including the Directors to do some work or other on salary basis. Next year the Company increased the salary of all the members who were also members-employees of the Company by two hundred per cent.

(a) Is the salary allowed to the shareholders and Directors of the Company an allowable expenditure for arriving at the income for

taxation purposes and (b) is the increment in salary allowable for taxation purposes though the increase was considered necessary by the Company on account of heavy rise in the articles of consumption?

"D.R.R."

A. 11. The answer to this question is entirely covered by the decision in the case *LAKSHMI NARAYAN SEN & SONS LTD. IN Re* (1936) 4 L.T.R. 255. In this case it was held that the fact that the accounts of the company had been audited and certified by a competent accountant would not preclude the Income-tax Authorities from enquiring whether such payments were made by way of remuneration for services or as a device to evade Income-tax or super-tax. "M.S.S."

Q. 11. It has become a general practice with the examiners of Income-tax to recommend to the Income-tax Officer to estimate profits on some pretext such as absence of control over receipts and payments; sometimes they think that the percentage of profits is low and therefore they presume that there must be some manipulation of purchases and sales. Then they would call for inward and outward invoices which a private dealer (merchant) never obtains as there is no such system in the market (at least in the trade of cotton and groundnuts). In almost all the cases it is found that the examiners as well as the Income-tax Officers are unreasonably suspicious. Will any of your readers inform me how they would deal with the above points at the time of Assessment?

"D.R.R."

A. 12. The Income-tax Examiners and Officers are to be treated in the same manner as we would like to be treated in case we happen

to occupy their places. If they are taken to be ordinary human beings trying to do their duty by themselves to the best of their abilities, it is incumbent on the representatives of the assessee to dispel the suspicion of the said authorities by bringing before their eyes concrete facts from the books and papers produced before them. If such proofs are of no avail, then we must remember that the said authorities are not the men to have the last say on the assessment. "M.S.S."

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."

A. 13. It is not mentioned in the question whether the shareholders of the company, when invited to consider the expenses, were specifically informed that the auditor of the Company had taken objection to the expenses for want of vouchers and that therefore the general meeting was called to

have the approval of the shareholders for such payments. If the attention of the shareholders had not been drawn specifically as aforesaid, it is the duty of the auditor of the company to mention in his report that the payments in question were not supported by vouchers. The fact that the managing committee and the company in general meeting (unanimous or otherwise) without the attention of the members being drawn specifically to the objection of the auditor approve of the payments even though they are not supported by proper vouchers will be of no avail. The duty of the auditor, under the statute, is to report to the shareholders. Further, in these days a balance sheet is more or less a public document and the man in the street can rely upon the facts as stated in the balance sheet. Hence even when the shareholders approve of the payments in question, the auditor will do well to make mention of the want of vouchers and of the approval by the managing committee and by the company in general meeting of such payments. "M.S.S."

Q. 16. A public limited company has provided in its Articles of Association that a certain percentage of the net profits is payable to promoter-block shareholders. The Department holds that the amount paid to the promoter-block shareholders 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 rea-

ders intimate if the plea as taken by the Company has been successful in any case within their experience?

"NANA"

A. 14. "The Act of 1929, except in Table A, where applicable, does not contain any express provisions as to the payment of dividends, and although the powers of a company are limited by its objects, the Act evidently treats the power to pay dividends as an object of every company so obvious and inherent as not to need mention in the memorandum, but properly left to be dealt with and defined by the Articles." Palmer.

"The manner in which the profits of the company are divided between the holders of shares must be determined in accordance with the Memorandum of Association, or, if that is silent, with the articles" Gore Browne.

The promoter-block-shareholders are entitled to a certain percentage of the profits in accordance with the specific provision in the articles. Usually the articles will contain a clause to the following effect:

"Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares

Therefore, though the portion of the profits given to the promoter-block-shareholders does not depend on the amount of Capital paid up it does form a part of the profits of the company and the division has been made in accordance with the specific provision contained in the

articles in that behalf. Such portion is certainly a DIVIDEND for all purposes, and no rebate can be expected on the amount so given away to the promoter-block-shareholders.

"M.S.S."

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?

"X.Y.Z."

Letters to the Editor

Sir,

I solicit the hospitality of your esteemed Journal to convey opinion with regard to the eligibility of a candidate to appear for the R. A. Final Examination under Rule 25 (ii) of the Auditor's Certificate Rules.

The clause runs as follows: "No candidate shall be admitted to the final examination unless he has either completed the period of service under articles prescribed by Rule 36 or is serving the last 24 months of the said period or is exempt from service under articles."

It is quite evident that these words 'serving the last 24 months of the said period' refer only to the services of articled clerks alone. The following two cases, therefore, need careful consideration. (1) "A" a non-graduate having served as an audit clerk for, say 5 years,

A. 15. There is no indication in the question that the company is not dealing in investments. In answering this question it is presumed that the company is not dealing in investments.

As the profit derived on sale of investments is only an accretion of capital, as it does not form part of the result of the business actually carried on by the Company, no irregularity can arise if the profit is credited to the Reserve Account directly without first crediting the same to the Profit and Loss Account.

"M. S. S."

converts himself as an articled clerk for the residue period of two years as per rule 36. (2) "B" a non-graduate first served as an articled clerk for two years and then changed himself as an audit clerk for the remainder term of 5 years. Though the period of service in each case is the same, it is needless to mention that persons coming under the first category have decidedly a marked advantage of appearing for the final examination during the last 24 months whereas persons of the latter group are not entitled to that facility. If the main criterion is one of experience in allowing a candidate to sit for the final examination, then I am of opinion that it will be just and equitable to afford the same privilege to audit clerks also. Will the authorities concerned view things in the light of the aforesaid circumstances and modify the rules accordingly?

R. THIRUVENKATACHARI.

STUDENT'S CORNER

Balance-Sheet—Audit

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

(Continued from page 96.)

The valuation of the undermentioned stock-in-trade should be made on the following basis:—

Stocks of raw materials should be valued at cost or market price, whichever is lower. Market price will be current price ruling in the market at the date of the Balance Sheet, this being the price at which such materials can be replaced.

Process stocks in course of manufacture are usually valued at work's cost but a reasonable addition for office and administrative expenses is permissible.

Finished goods may be valued at either works' cost or cost of production but in no circumstances must such valuation exceed the price at which similar goods could be purchased in the market.

Growing crops abroad should be valued at the cost of seed, fertiliser, labour, etc., but not exceeding the valuation per acre made by expert valuer.

The stock of a cotton merchant should be valued at cost or market price, whichever is the lower, particular attention being paid to stocks of obsolete or old-fashioned materials.

Stock is simply an eliminating factor, since it is brought into the accounts merely for the purpose of eliminating from the total expenditure the cost of goods remaining

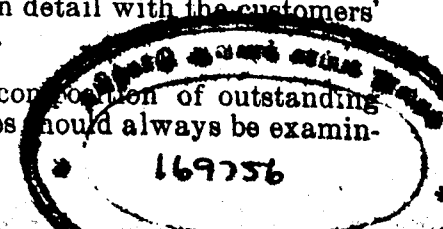
unsold leaving as a debit against sales only the cost of the goods actually sold.

Accounts Receivable—The Book-keepers of the accounts receivable ledgers should be asked to draw up lists of the open balances at the end of the fiscal period, and distributions of the total columns should be shown on the lists according to the age of the accounts, e.g., past due, outstanding for sixty days, outstanding for thirty days and incurred during last month of fiscal period. The accounts paid since the close of the fiscal year should be noted on the lists by the assistant examining the accounts, as payment is the best proof that an account was good at the date at audit.

The totals of the lists of **outstanding accounts** should agree with the **controlling account** in the General Ledger. When credit balances appear on customers' accounts they should be included under the heading of Accounts payable in the Balance Sheet of the Company and not treated as a deduction from the amount of the accounts receivable and in the same manner debit balances on the accounts payable ledger should be treated as Accounts Receivable. The lists should be posted and compared in detail with the customers' ledgers.

The comparison of outstanding balances should always be examin-

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ed, as it frequently happens that while a customer may be making regular payments on his account, old items are being carried forward which have been in dispute for a considerable period of time.

Trade discounts allowed by the company should be inquired into, and if they have been included on the accounts receivable a reserve therefor should be set up in the Balance Sheet.

Accounts which are past due should be taken up with the Credit Department and the correspondence with the customers examined, so that the Auditor may form an opinion of the worth of the accounts and satisfy himself that the Reserve for Bad and Doubtful Accounts set up by the company is sufficient. Inquiries should be made regarding customers' claims for reductions in prices and for rebates and allowances on account of defective materials, so that it may be seen that a sufficient reserve has been established therefor. In large corporations there is generally a claim department which attends to this part of the work.

In large concerns the system of accounting is generally so arranged that it would be almost impossible for accounts to be paid and not credited on the Accounts Receivable ledgers, but in small companies with imperfect system such occurrences are quite possible, so much so, in fact it is generally admitted, that the risk of cash defalcations decreases in proportion to an increase in book-keeping incidental in an increase in business.

When it is deemed advisable to circularise the customers in regard to the open balances on their

accounts, the auditor should compare the circulars with the lists of outstanding accounts and also verify the customers' acknowledgment of the figures in the circulars.

The auditor should satisfy himself that bad debts written off have been duly authorised by responsible officials, and the smaller the accounting force the more important this is.

Accounts due from directors, officers and employees should be stated in the Balance Sheet separately and not included as trade accounts.

Advance payments on account of construction work and other extraordinary items included in the Accounts Receivable ledgers should be distributed under their proper headings in the Balance Sheet.

Bills Receivable.—A list of the bills receivable outstanding at the end of the fiscal period should be prepared showing the dates the bills are made, the customers' names, the due dates, the amounts of the bills and the interest, if any, contained in the bills. The outstanding bills should be carefully examined with Bills receivable Book, with the list prepared by or produced to the Auditor, the due dates and the dates of making the bills being carefully checked, and when bills were renewed, the original date should be recorded in the working papers. When bills have been paid since close of the fiscal year, the cash should be traced into the books of the company, and when they are in the hands of attorneys or bankers for collection, certificates should be received from the depositories. Bills Receivable should, if possible, be examined at the close

of business on the last day of the fiscal period to avoid the work of tracing bills paid since the close of the year, which becomes necessary when they are examined subsequent to the date of the Balance Sheet.

The auditor should never be put off with excuses for not producing bills. In cases where irregularities are suspected, lists of discounted bills not matured at the date of the audit should be obtained from the banks as bills which have been received for accounts receivable may have been discounted by a dishonest treasurer, and in some cases not even recorded as Bills on the Books.

When Bills Receivable are discounted by Banks before their due dates, the company has a contingent liability therefor which

should be noted in the Balance Sheet.

It is generally not considered conservative business policy to take up accrued interest on Bills Receivable as an Asset, as the very fact of a customer granting a bill generally signifies his lack of current funds.

The value of collateral held for bills should be ascertained, as it frequently happens that the value of the collateral is the worth of the Bill.

Bills due by officials and employees should in most cases be stated separately from customers' bills in the Balance Sheet.

If the accounts receivable are circularised the same procedure should be adopted for the Bills Receivable.

(Will continue)

NOTIFICATIONS

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

Act No. VII of 1946

An Act to give effect to the financial proposals of the Central Government for the year beginning on the 1st day of April 1946.

Whereas it is expedient to fix the duty on salt manufactured in, or imported by land into, British India, to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to continue, subject to certain modifications, for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), to alter the duty of customs on cinematograph films, raw cotton and silver, to withdraw the duty of customs on raw cotton levied under the Cotton Fund Ordinance, 1942 (VIII of 1942), to impose a duty of customs on gold, to alter the duty of customs and the duty of excise on betelnuts, motor spirit, kerosene and mineral oils, to fix rates of income-tax and super-tax and to make certain provisions relating to income-tax, super-tax and excess profits tax;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Finance Act 1946.

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

11. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4), (5), (6) and (7),—

(a) income-tax for the year beginning on the 1st day of April 1946 shall be charged at the rates specified in Part I of the Schedule, and

(b) rates of super-tax for the year beginning on the 1st day of April 1946 shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Schedule.

(2) In making any assessment for the year ending on the 31st day of March 1947, there shall be deducted from the total income of an assessee, in accordance with the provisions of Section 15A of the Indian Income-tax Act, 1922, an amount equal to—

(i) one-tenth of the earned income chargeable under the head "Salaries" which is included in his total income, subject to a maximum of two thousand Rupees, plus

(ii) one-fifth of the earned income other than the income chargeable under the head "Salaries" which is included in his total income;

Provided that the aggregate amount to be deducted under this sub-section shall not in any case exceed four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March 1947.—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on Securities", or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1945, on his total income the same proportion as the amount of such inclusions bears to his total income;

(b) where the total income of an assessee not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1945, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March 1947, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(i) on that part of the earned income chargeable under the head "Salaries" to which clause (b) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that clause, plus

(ii) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, plus

(iii) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) Where the total income of an assessee referred to in paragraph A of Part I of the Schedule

does not exceed six thousand rupees and includes any income to which clause (a) of sub-section (3) applies, the income-tax payable by the assessee on such inclusion as computed in accordance with the provisions of that clause shall be reduced by an amount representing one rupee for every complete unit of two hundred rupees of such inclusion as reduced by the amount of income, if any, exempt under the second proviso to sub-section (1) of section 7, section 15, and sub-section (1) of section 58F, of the Indian Income-tax Act, 1922:

Provided that the reduction to be made under this sub-section shall not in any case exceed two-fifths of the income-tax otherwise payable on such inclusion:

Provided further that if there is an incomplete unit of such inclusion amounting to one hundred rupees or more, it shall for the purposes of this sub-section be reckoned as a complete unit of two hundred rupees.

(6) In making any assessment for the year ending on the 31st day of March 1947,—

(a) where the total income of a company includes any profits and gains from life insurance business the super-tax payable by the company shall be reduced by an amount computed at the rate of one anna in the rupee on that part of its total income which consists of such inclusions;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(7) In cases to which section 17 of the Indian Income-tax Act, 1922 applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section and in accordance, where applicable, with the provisions of sub-sections (3), (4), (5) and (6) of this section.

(8) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April 1946, under sub-section (2) or sub-section (2B) of section 18 of the Indian Income-tax Act, 1922, from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income but not exceeding in any case four thousand rupees.

(9) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

(10) If any provision is made in the Indian Income-tax Act, 1922, for the allowance of expenditure on scientific research related to the business carried on by an assessee, then any such expenditure incurred by him in the previous year for the assessment for the year ending on the 31st day of March 1946 shall, for the purposes of that provision and in accordance therewith, be deemed to be expenditure incurred in the previous year for the assessment for the year ending on the 31st day of March 1947, and shall be added to the amount of such expenditure, if any, in that previous year.

(11) Any sum being excess profits tax repaid in respect of any chargeable accounting period under the provisions of section 10 of the Indian Finance Act, 1942, or of section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall, notwithstanding the provisions of section 34 of that Act, be treated as income of the previous year which constitutes or includes the chargeable accounting period in respect of which the said sum is repayable.

Provided that any such sum repaid in respect of any profits which are also assessable to excess profits tax under the law in force in the United Kingdom shall be treated, for the purpose of assessment to income-tax and super-tax as income of the previous year during which the repayment is made.

(12) The Income-tax Officer shall calculate the amount of income-tax and super-tax payable in respect of each sum referred to in sub-section (11), and such amount shall be deducted from the said sum at the time that it is repaid, and where the regular assessment proceedings for the appropriate assessment year are not complete, the tax so deducted shall be treated as a payment of income-tax or super-tax, as the case may be, for the purposes of sub-section (5) of section 18 of the Indian Income-tax Act, 1922.

(13) Any person objecting to the amount of a deduction made under sub-section (12) may appeal to the Appellate Assistant Commissioner within thirty days of the receipt of the repayment order, and the provisions of sections 30, 31 and 33 of the Indian Income-tax Act, 1922, shall apply as if such appeal were an appeal under the first-mentioned section.

(14) Where under the provisions of sub-section (2) of section 12 of the Excess Profits Tax Act,

1940 (XV of 1940), excess profits tax payable under the law in force in the United Kingdom has been deducted in computing for the purposes of income-tax and super-tax the profits and gains of any business, the amount of any repayment under sub-section (1) of section 28 of the Finance Act, 1941 (4 & 5 Geo. 6. c. 30), as amended by section 37 of the Finance Act, 1942 (5 & 6 Geo. 6. c. 21), in respect of those profits, shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall for the purpose of assessment to income-tax and super-tax, be treated as income of the previous year during which the repayment is made.

12. Excess profits tax.—If any provision is made in clause (vi) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922) to allow in respect of depreciation a further sum which is not deductible in determining the written down value, then such sum shall not be included in the allowance made in computing profits for the purposes of the Excess Profits Tax Act, 1940 (XV of 1940).

13. Amendment of section 10, Act XII of 1942.—(1) To sub-section (1) of section 10 of the Indian Finance Act, 1942, the following further proviso shall be added, namely:—

"Provided further that no such further sum herein referred to shall be deposited with the Central Government after the 28th day of February 1946."

(2) The provisions of this section shall be deemed to have come into force on the 28th day of February 1946.

THE SCHEDULE

(See section 11)

PART I

Rates of Income-tax

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	RATE
1. On the first Rs. 1,500... of total income	Nil.
2. On the next Rs. 3,500... of total income	One anna in the rupee.
3. On the next Rs. 5,000... of the total income	Two annas in the rupee.
4. On the next Rs. 5,000... of total income	Three and a half annas in the rupee.
5. On the balance of total income	Five annas in the rupee.

Provided that—

(i) no income-tax shall be payable on a total income which, before deduction of the allowances

if any, for earned income, does not exceed Rs. 2,000.

(ii) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 2,000;

(iii) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(a) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 2,000

the same proportion as such reduced total income bears to the unreduced total income, or

(b) the income-tax payable on the income so reduced at the rates specified in this Schedule, ...whichever is less.

B.—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act 1922, income-tax is to be charged at the maximum rate—

RATE

On the whole of total income... Five annas in the rupee.

PART II

Rates of Super-tax

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies—

	Rate, if income wholly earned	Rate, if income wholly unearned
1. On the first Rs. 25,000 of total income ...	Nil	Nil
2. On the next Rs. 10,000 of total income ...	Two annas in the rupee	Three annas in the rupee
3. On the next Rs. 10,000 of total income ...	Three annas in the rupee	Four annas in the rupee
4. On the next Rs. 15,000 of total income ...	Four annas in the rupee	Five annas in the rupee
5. On the next Rs. 20,000 of total income ...	Five annas in the rupee	Six annas in the rupee
6. On the next Rs. 30,000 of total income ...	Six annas in the rupee	Seven annas in the rupee
7. On the next Rs. 40,000 of total income ...	Seven annas in the rupee	Eight annas in the rupee
8. On the next Rs. 50,000 of total income ...	Eight annas in the rupee	Nine annas in the rupee
9. On the next Rs. 50,000 of total income ...	Nine annas in the rupee	Nine and a half annas in the rupee
10. On the next Rs. 1,00,000 of total income.	Nine and a half annas in the rupee	Ten annas in the rupee
11. On the next Rs. 1,50,000 of total income.	Ten annas in the rupee	Ten and a half annas in the rupee
12. On the balance of total income ...	Ten and a half annas in the rupee	Ten and a half annas in the rupee

B.—In the case of every local authority—

RATE
On the whole of total income One anna in the rupee.

C.—In the case of an association of persons being a co-operative society, other than the Sankat Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of co-operative societies—

RATE
1. On the first Rs. 25,000 of total income Nil.
2. On the balance of total income One anna in the rupee.

D.—In the case of every company—

Rate
On the whole total income.....One anna in the rupee

and in addition, in respect of that part of the total income (as reduced by the amount of dividends payable at a fixed rate) which does not exceed the amount of dividends, not being dividends payable at a fixed rate, declared in British India in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March 1947, —

on the amount by which such part—

RATE

- (a) exceeds 30 per cent., but does not exceed 40 per cent., of the total income as so reduced. Two annas in the rupee.
(b) exceeds 40 per cent., but does not exceed 45 per cent., of the total income as so reduced. Three annas in the rupee.
(c) exceeds 45 per cent., but does not exceed 50 per cent., of the total income as so reduced. Four annas in the rupee.

RATE

- (d) exceeds 50 per cent., but does not exceed 55 per cent., of the total income as so reduced. Five annas in the rupee.
(e) exceeds 55 per cent., but does not exceed 60 per cent., of the total income as so reduced. Six annas in the rupee.
(f) exceeds 60 per cent. of the total income as so reduced. Seven annas in the rupee.

Provided that—

(i) no additional super-tax shall be payable where such part is less than, or equal to, five per cent. on the capital of the company;

(ii) where such part is more than five per cent. on the capital of the company, the additional super-tax payable shall be reduced by the amount of additional super-tax which would, but for the provisions of clause (i) of this proviso, have been payable had such part been equal to five per cent. on the capital of the company;

(iii) where any dividends (not being dividends payable at a fixed rate) have been declared before the 1st day of March 1946 in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March 1947, and the amount of super-tax computed at the rates set out in this paragraph exceeds the amount of super-tax which would be payable by the company at the rate specified in the Indian Finance Act, 1945, such proportion of the amount of super-tax computed under this paragraph as the amount of dividends declared before the 1st day of March 1946 bears to the total amount of dividends declared in respect of the said previous year (not being dividends payable at a fixed rate) shall be so reduced as not to exceed the same proportion of the super-tax computed at the rate specified in the Indian Finance Act, 1945;

(iv) the additional super-tax shall be payable only by a company in which the public are substantially interested within the meaning of the Explanation to sub-section (1) of section 2 A of the Indian Income-tax Act, 1922, or a subsidiary company of such a company where the whole of the share capital of such subsidiary company is held by the parent company or by the nominees thereof.

Explanation.—For the purposes of this paragraph,—

(a) the expression "capital of the company" shall be deemed to mean the paid-up share capital at the beginning of the previous year for the assessment for the year ending on the 31st day of March 1947 (other than capital entitled to a dividend at a fixed rate) plus any reserves other than depreciation reserves and reserves for bad or doubtful debts at the same date as diminished by the amount on deposit on the same date with the Central Government under section 10 of the Indian Finance Act, 1942, or section 2 of the Excess Profits Tax Ordinance, 1943.

(b) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6A) of section 2 of the Indian Income tax Act, 1922, and any such distribution made during the year ending on the 31st day of March 1947 shall be deemed to have been made in respect of the whole or part of the previous year;

(c) where any portion of the profits and gains of a company is not included in its total income, by reason of such portion being exempt from tax under any provision of the Indian Income-tax Act, 1922, the capital of the company, the total amount of dividends and the amount of dividends payable at a fixed rate shall each be deemed to be the proportion thereof that the total income of the company bears to its total profits and gains.

G. H. SPENCE,

Secretary to the Government of India.

Central Board of Revenue.

New Delhi, the 23rd March 1946.

CIRCULAR

Subject:—Allowances in Assessing Business Income Indian Institute of Art of Industry—subscriptions for membership.

The Board has decided that annual subscriptions for the membership of the "INDIAN INSTITUTE OF ART IN INDUSTRY" paid by the business-men should be allowed as deduction for the purpose of Income-tax and Excess Profits Tax Assessments, provided the nature of the business is such that it will benefit directly or indirectly from the activities of the Institute. The subscription should not be disallowed wholly or in part for Excess Profits Tax assessment merely on the ground that the benefits to be derived will ordinarily accrue after the C. A. P. ending 31st March 1946. Donations to the Institute would not however be admissible as they would not fall within the meaning of sums paid for "scientific research" for which provision has been made in the Income-tax Amendment Bill.

S. RANGANATHAN,

Secretary, Central Board of Revenue.

CIRCULAR No. 3 OF 1946

New Delhi, the 26th March 1946.

Subject:— Allowances in assessing business income—Labour welfare—Reserves set apart by employers—Admissibility in income-tax assessments.

It is desirable to offer some inducement to employers of labour to continue expenditure on labour welfare work without interruption during years of low profits or even losses. The Board have, therefore, decided that any expenditure on labour welfare work, not of a capital nature, actually incurred during the previous year should be allowed in entirety as deduction in Income-tax assessments, irrespective of the actual amount of profits for that year available for meeting the expenditure. In those years in which there are small profits or losses and the expenditure is wholly or in part met from reserves previously set apart and not allowed in full against the income of the year in which it is actually incurred and the resultant loss, if any, should be carried forward in accordance with the provisions of Section 24 of the Income-tax Act.

S. RANGANATHAN,

Secretary, Central Board of Revenue.

**INDIAN INCOME-TAX RULES,
1922—AMENDMENTS.**
Notification No. 14.

Camp, dated the 2nd March 1946.

In exercise of the powers conferred by sub-section (1) of Section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Indian Income-tax

Rules 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

In the statement set out below Rule 8 of the said Rules, under the head "III. Machinery and Plant:" and sub-heading "(2) Special rates to be applied to the whole of the machinery and plant used in the following concerns:—" against the letter "b"—

(1) In item (XXX) after the words "Iron and Steel Industry" an asterisk * shall be inserted and in the column headed "Remarks" against this item an asterisk and words "* Replacement of rolling mill rolls will be allowed as revenue expenditure" shall be inserted;

(2) After item (XXXIV) the following item shall be inserted; namely:—

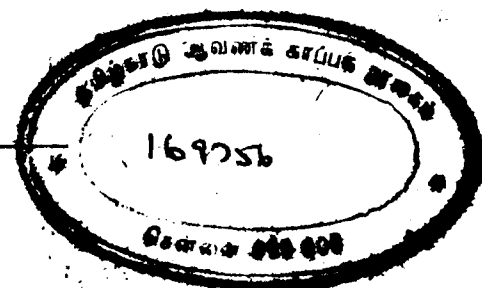
"(XXXV) Manufacture of pottery and other clay products."

**EXCESS PROFITS TAX (POST
WAR REFUNDS) RULES, 1942**
Notification No. 1.

Dated the 6th April 1946.

In exercise of the powers conferred by sub-section (3) of Section 10 of the Indian Finance Act, 1942 (XII of 1942), and by that sub-section read with sub-section (5) of Section 2 of the Excess Profits Tax Ordinance, 1943 (No. XVI of 1943), the Central Government is pleased to direct that the following further amendment shall be made in the Excess Profits Tax (Post-War Refunds) Rules, 1942, namely:—

In Form E. P. 4-17 appended to the said Rules, the word "Civil" wherever it occurs, shall be omitted.



X: 28/1/1946

NUL