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The

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

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

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CONTENTS

Our readers will be gratified to learn that since the issue of our previous number, the attitude of the Government of India appears to have changed considerably, a change which ought to be welcomed by the profession. All these years there has been persistent agitation carried on by the profession against the present method of individual selection of accountants for the purpose of conferring upon them the rights to take and train articled clerks. In the speech delivered by Hon'ble Mr. C. H. Bhabha, the then Commerce Member of the Government of India, at the opening of the last session of Indian Accountancy Board, this change in the attitude was clearly reflected. He had endorsed the demands of the Profession in the matter of automatic "approval" of accountants and further went on to suggest various other welcome changes in the constitution of the Accountancy Board. These proposed changes will, we are sure, attract students with talents to our profession and thus increase the number of qualified accountants in the Country, a move which should be welcomed by all concerned as there is an acute dearth of qualified men. The industrial expansion of the country calls for their services for various departments of business and the demand for accountants will increase more and more, not merely in general accountancy sections but also in costing, statistics and other varied sections where the demand has not been keenly felt so far. The Profession will also be considerably benefited, as their prestige is bound to go up with their increased ability to cope up with the difficult times ahead. Coming from a member of the commercial community, it was not surprising that Mr. Bhabha claimed representation for commercial interests as well in the constitution of the Indian Accountancy Board. We would, however, stress that the management of the profession is a purely domestic affair of the Registered Accountants and nobody else has any right to be represented in the Board, although the work of the Accountants is closely connected with commerce. We would also point out that, if at all, the Accountants have a right for representation in commercial bodies by virtue of their expert and intimate knowledge of commercial transactions as presented in the accounts and statements. As at present, there has been very little representation of accountants in the management of chambers of commerce and such other commercial institutions, at least in this part of the country. We dare say, these institutions have failed to take advantage of the experience and knowledge of the professional men. Time has come when many businessmen have come to realise the usefulness of taking day-to-day advice from our profession. We are confident that this individual recognition will be reflected in the commercial bodies and that such institutions will choose more members out of the profession for their various committees and sub-committees. The remarks of the Commerce Member viewed at from the above perspective will make it clear that his proposition that commercial bodies should have interests in the control and management of the profession should be reversed. It should be recognised that there is no justification for outside control of the profession.

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(2) This year's budget, the first to be presented by an Indian Finance Member of the Central Government, has been published. It is claimed as a *Poor man's budget* since Salt-tax has been abolished and the minimum income for income-tax has been raised to Rs. 2500/-. But it is a matter for speculation whether the other proposed taxes will benefit the poorer classes. It may appear to be a paradox to think that the increase in the rates of supertax for individuals, increase in the Corporation tax by one anna, the flat rate of 25 per cent of the cax on incomes exceeding rupees One Lakh and the taxation of Capital profits-all these measures apparently intended to tax the rich only-will reflect on the poor also. The absence of profit motive may be one of the serious result that may arise from the above measures, and this may reflect in a very telling way on the growth of industries and consequently on the national economy and employment, leave alone the consequent fall in Central revenues. In the present state of under-development of the Country's resources the introduction of such harsh measures is very questionable and we must point out that the situation, on the contrary, calls for a liberal taxation policy in order to provide the necessary incentive for the public to take to

industries. Another unexpected feature, which the Finance Member announced, relates to the proposed formation of a Committee to investigate accummulation of wealth. We heartily approve of this in as much as this is the only way left to book the tax-dodgers. We are sure that our Profession, generally, will be ready and glad to contribute the best of their services for helping the Government in this direction. The varied experiences of our Professional men place them in a position whereby they are best qualified to tackle this difficult task. We feel sure that Government will realise this and will not hesitate to draw up on this fund of experience, when the question of formation of Committees is considered.

SPECIAL ARTICLE.

The Hindu Undivided Family and the Indian Income-Tax Act.

(T. V. Viswanatha Aiyar., B.A., B.L.)

(Continued from page 6 of Vol. II.)

Hindu Undivided Family Can be Taxed only on its Income:—Apart from the position under the General Hindu law, it is important to note that the mere existence of a Hindu Undivided Family does not solve the difficulty regarding the nature of taxation of its income under the Indian Income-tax Act. The question to be considered is whether the income is that of the Hindu Undivided Family.

If in a Mitakshara Hindu Undivided Family there happens to be a sole male member, or no male member at all, the others being females having right to maintenance or marriage expenses etc., the question whether the income can be said to belong to the Undivided Hindu Family or not has still to be considered. The interest which a wife or a daughter may have, to be maintained or married, will not in any way affect the ownership of the sole male member to the entire estate and its income.

By reason of its origin, a man's property may be liable to be divided wholly or in part on the happening of a particular event or may be answerable for a particular obligation or may pass at his death in a particular way; but, if in spite of such a fact, his personal law regards him as the owner, the property, as his property, and the income therefrom as his income, the income is chargeable to income-tax as his, *i.e.*, as the income of the individual and not that of the Hindu Undivided Family of which he happens to be a member.

Thus it has been held by Their Lordships of the Privy Council in Kalyanji Vithaldas *V.* Commissioner of Income-tax, already referred to, that under the Mitakshara Law, the mere fact that a man had a wife and a daughter does not make his ancestral property joint or the income of such property assessable as income of an Undivided Hindu Family and that therefore the sole male member would have to be assessed as individual. (Gift by a father to the son; the son has only a wife and a daughter; held assuming that the property was ancestral, the income from the property was not the income of a Hindu Undivided Family. Each of 2 brothers had several sons; but the income was from the property which was the separate or self-acquired property of the brother and not thrown into common stock; held it was not joint family income.).

In Commissioner of Income-tax, Bombay *V.* A. P. Swamy Gomedalli,

(1937) I.T.R.-416—(P.C.).—the joint family orginally consisted of father, mother, son and his wife. The son succeeded his father by survivorship. It was held by the Privy Council, reversing the decision of the Bombay High-Court-(1937) I.L.R.59 Bom. 598—that the income belonged to the individual and not to the Hindu Undivided Family.

The Hindu Women's right to Property Act, 1937 has introduced changes in the Law of Inheritance. Under the Act, widows in a joint family have the same interest as the husbands had in any joint family property, and a widow is given the right to succeed to the separate property of the husband as an equal sharer along with her sons. In such a case where the females are also jointly entitled to a share the income from the Joint Estate would be income of a Hindu Undivided Family. See Commissioner of Income-Tax Madras V. Lakshmanan Chettiar—I.L.R. 1941, Madras-104=(1940) I.T.R.—545-(a case of an assessee and his step-mother.)

Income from property descending to a female as an heir to the sole surviving male member would be assessed in the hands of the female only as an individual, though there may be other members having right of maintenance as against the Estate. See Musanath Pannabai V. Commissioner of Income-tax—I.L.R. 1943—Nag.458=(1943) I.T.R. 154 (a case of a daughter-in-law succeeding as sole heir to the son, the mother-in-law being entitled to maintenance)

Holders of impartible estate receive the income from the Estate as solely belonging to themselves and should therefore be assessed only as individual, though the holder may be a member of a Hindu Undivided Family owning the impartible Estate. It is the character of the income in the hands of the recipient that has to be looked into and not the source or the origin of the man's property or its answerability for a particular obligation for maintenance etc. Commissioner of Income-tax V. Krishna Kishore- I.L.R. 1942-Lah. 1 P C. = (1941) I.T.R. 695- (1941) L.R.689.A.155.

Where it was held that in the case of house property belonging to an impartible estate, the income from the house property is to be assessed under Section (9) as that of a Hindu Undivided Family and not as that of an individual and in regard to other incomes of the estate under Sections 8 and 12, they should be assessed as that of an individual in the hands of the owner for the time being of the impartible estate and as his income, though he may have undivided sons. Their Lordships of the Privy Council have approved the decision of the Madras High Court in Commissioner of Income-tax V. Raja of Bobbili- I.L.R. 1937—Madras—797=(1937) I.T.R. 78. See also the decision of the Privy Council in Raja Krishna Yachendra V. Raja Rajeswara Rao—I.L.R. 1942-Madras. 419—P.C.

In Re. Hiralal—1945 I.T.R.-512, it was held that allowance made to widowed mother and step-mother under an award to settle a partition of property and made a rule of Court is not received by the widow as a member of a Hindu Undivided Family and as the payments were obligatory and subject to an overriding charge, the sums so charged cannot be the income of the Assessee. Similarly in Munshi Gulab Singh & sons V. Commissioner of Income-tax—(1946) I.T.R.—66.

In Commissioner of Income-tax V. Makanji Lalji—I.L.R. 1937. Bom. 827=1937 I.T.R. 539—the Hindu Undivided Family claimed as deduction the amount af maintenance paid under a decree to the widow of a deceased co-parcener. It was held that no deduction could be given as the widow received it as a member of the Hindu Undivided Family.

Exemption From Taxation :—As already stated any sum received by—

(a) a member of a Hindu undivided family

(b) as such member and

(c) where such sum has been paid out of the income of the family

is exempt from taxation under Section 14(1) of the Indian Income-tax Act. It is important to remember that in order to come within the exemption all the three conditions must be satisfied. The last of the conditions was added by the Amendment Act of 1939.

Obviously the object of this exemption is to exclude from taxation in the hands of the individual that which is taxed in the hands of the Hindu Undivided Family of which the individual is a member—to avoid double taxation. The decisions regarding this have not, however, been uniform.

In Vedathanni V. Commissioner of Income-tax, Madras—I.L.R.—56 Madras. 1=1933 I.T.R. 70—Their Lordships of the Madras High Court have held that the sole member holding joint family property cannot be said to receive the income of the Estate as a member of a Hindu Undivided Family and that he receives it by reason of business, investments or from some other source and not by reasan of his being a member of a Joint Family, and that, therefore, the language of Section 14(1) is strictly applicable only to widows of deceased co-parceners and disqualified heirs and maidens in the family receiving maintenance.

Thus it has been held in Ambika prasad Singh V. Commissioner of Income tax—I.L.R. 5, Pat. 20=2. I.T.C. 92—that the maintenance received by a father from his son out of property inherited by the son from the maternal grandfather is income received *aliundi* from the property not taxed as that of a Hindu Undivided Family and hence not exempt.

In Commissioner of Income-tax V. Lakshmipathi Sahiba—I.L.R. 14—Pat. 313=1935) I.T.R.-49—it was held that annual allowance received from a holder of an estate by the widow of a deceased member of a joint family by way of compromise doubtful claims is not necessarily received as a member of a Hindu Undivided Family and hence not exempt.

In Kedar Naraian Singh V. Commissioner of Income-tax—(1938) I.T.R. 157—it was held that only those members of a Hindu Undivided Family can claim exemption under Section 14 (1) who either on partition would be entitled to demand a share or entitled to maintenance under the Hindu Law and who therefore could be said to have an interest in the joint income of the property that are exempt and that therefore a daughter's son of the widow of the last male owner and proprietor for the time being of the Estate, though a prospective heir, does not receive the monthly allowance granted to him from the Estate as a member of a Joint Hindu family and hence cannot claim exemption.

In Sri Kamala Bala Dasi V. Commissioner of Income-tax (1940) I.T.R.—404—it was held that a monthly payment received by way of maintenance by the widow of a co-parcener who leaves the family relinquishing and surrendering her life estate in favour of her brother-in-law, does not receive the payment as a member of a Hindu Undivided family and hence no exemption can be claimed.

On the other hand in the following cases it has been held that the income is exempt.

Vedathanni V. Commissioner of Income-tax—I.L.R. 56=Madras. 1=1933 I.T.R. 70—(maintenance and arrears of maintenance received by a widow of a co-parcener), Commissioner of Income-tax V. Rani Rudh Kumari—(1940 I.T.R.—607—(maintenance given to assessee's mother under a will). This was a case decided before condition (c) was added to the Section. It is submitted that the decision would not be correct now.

In Bhagwathi V. Commissioner of Income-tax—I.L.R. 1941 All. 43=(1941) I.T.R. 31—sums received by the widow of a deceased co-parcener by way of maintenance subsequently the family disrupted and partitioned into 5 separate entities; held even after disruption the assessee, (the widow) continues to be a member of the Hindu Undivided Family with each of the five and the amount was received as a member of the Hindu Undivided Family.

In Mussamat Radha Kuer *V.* Commissioner of Income-tax I.L.R. 21 Pat. 615=(1942) I.T.R. 229—sums received by way of compromise decree for maintenance by a widow of a co-parcener is exempt even though living apart from the members. The question whether the sum would become liable in the event of disruption of the family has been left open.

In Re Chanan Devi—(1944) I.T.R.-153—it was held that the allowance received by the widow of a deceased co-parcener under compromise decree was received as a member and hence exempt.

The addition of condition (c) above viz., that the sum paid should be out of the income of the family, has assumed great importance in regard to impartible estates. Hence, the following decisions granting exemption made under the unamended section require reconsideration in the light of the amendment adding condition (c) and the authoritative decision of the Privy Council in Commissioner of Income-tax *V.* Krishna Kishore *supra.* :

In Commissioner of Income-tax *V.* Maharaj Kumar of Vizianagaram—(1934) I.T.R. 186—and Commissioner of Income tax *V.* Narayana Gajapathy Raju—I.L.R. 57-Mad. 1023=(1934) I.T.R. 288—it was held that junior members receiving maintenance from holder of an impartible estate under a deed of trust or award received them as members of a Hindu Undivided Family and hence exempt. The question whether the income from which the maintenance was paid belonged to the holder or not was not gone into.

In Commissioner of Income-tax *V.* Visheshwar Singh I.L.R. 14 Pat. 785=(1935) I.T.R. 216—allowance given to an elder brother of the holder who has renounced his rights was held to be received as a member out of the joint family property and hence exempt. It is not sufficient that the property should belong to the joint family. It must be shown that the income was paid out of the income of the family.

In Commissioner of Income-tax *V.* Maharani Gyan Manjuri Kuari—(1945) I.T.R.—5—maintenance allowance paid to mother of holder of an estate under management of Court of Wards was held exempt as received by the mother from joint family property.

In the following cases it has been held that there is no exemption.

In Kunwar Kartar Singh *V.* Commissioner of Income-tax (1937) I.T.R. 569—amounts paid as maintenence to brother of holder were held to be not exempt as they were not received from the joint income of the family.

Rani Anand Kunwar *V.* Commissioner of Income-tax—(1943) I. T. R. 235—amounts received by a widow of a deceased holder under the Oudh Estates Act are not received as member of a Hindu Undivided Family.

In Rajkumar Rananjaya Singh *V.* Commissioner of Income-tax—(1944) I.T.R. 159—maintenance allowance received by the son of the Talukdar of Oudh out of the latter's income from the Talukdari Estate was not received by the son as a member of Hindu Undivided Family and the son had no claim to the income *qua member* of a Hindu Undivided family.

In Commissioner of income-tax *V.* Chandra Mani Patta Maha Devi—(1946) I.T.R. 135—it was held that a maintenance allowance paid under deed by a lady who surrendered her interest in a property other than a joint family property is not a sum received as member of a Hindu Undivided Family and hence not exempt. The unfailing test for the application of Section 14 (1) is to determine whether the allowance would cease if the assessee ceases to be a member of the family. See also Maharani Lakshmipat Mahadevi *V.* Commissioner of Income-tax—(1944) I.T.R.—489.

(*Will Continue*).

Case Law.

VII. 1946—I. T. R.—10.—The assessee carried on business as a furniture maker. He also practised as a consulting Engineer. On February 18, 1938, he sold his furniture business to a private limited company and discontinued his practice as a consulting engineer from that date onwards. For the assessment year, 1939-40, (his accounting year 1938) a sum of Rs. 12,302 representing outstandings earned when practising as a consulting engineer prior to his discontinuance and received during the calender year 1938, was shown as income in his assessable income. The assessee contended that as he had discontinued his profession in the accounting year 1938, the sum of Rs. 12,302 was not liable to income-tax. The Court held that the sum was assessable to income-tax under Section 10 of the Income-tax Act.

VIII. Commissioner of Income-tax Vs, Gurupada Dutta and Others—

(1946) I.T.R.—100. In the above case, the question arose whether the Union rate paid by the assessee for premises occupied for the purpose of his business was deductible under Sec. 10 (2) (9) of the Income-tax Act. The Privy Council held that it was.

IX. Commissioner of Income-tax Vs. S. K. Sahana & Sons.—(1946) I.T.R. 106.

In this case the assessee was a Hindu Undivided family and had business in Mica and a Rice Mill. The Assessee transferred his business in Mica and Rice Mill along with the premises and machineries to a Joint Stock Company in January, 1940. In the Assessment year 1940-41, the assessee claimed depreciation for the entire period instead of for 8½ months ending with January 1940 during which he was the owner of the machinery and rice Mill. The Income-tax Department allowed depreciation only for 8½ months, on the view that he was entitled to claim depreciation only for the period during which he was the owner of the property. The Court held that there was no provision in the Act which authorised an apportionment of depreciation and that the assessee was entitled to claim depreciation for the entire period.

In Commissioner of Income-tax V. Motors and General Stores Ltd.

14 (1946) I.T.R.—130—the Madras High Court came to a similar conclusion.

X. Commissioner of Income-tax, Madras V. Sri. Visweswara Das Gokuldas—14 (1946) I.T.R.—110.

The Madras High Court held that Section 13 of the Income tax Act empowered the Income-tax Officer, to adopt any method, other than that adopted by the assessee, if necessary, to ascertain correctly the assessee's profits.

XI. Waman Satwappa Kalghatgi V. Commissioner of Income tax—

14 (1946) I.T.R.—116. The members of a Hindu undivided family, on 30th July, 1941 completed a division of the family cash, jewellery and businesses. Since the division effected on 30th July did not correspond exactly with the shares of each individual co-parcener, it was decided that the matter should be referred to arbitration and a final division effected. The properties were finally divided in pursuance of an award on 20th October 1941. The question arose whether the profits earned by each individual carrying on business after 31st July 1941 and before 20th October 1941 was assessable individually or jointly. The Court held following R.B. Bansidhar Dhandhania and Another *V.* Commissioner of Income-tax, Bihar and Orissa (1944) 12 I.T.R. 126 that it was open to the members of the Joint Hindu Family to separate one of its assets so as to make it not to belong to

the joint family and if that asset was a business the income derived from carrying on such business would not form part of the joint family income and Section 25 (A) would not come in the way. In the circumstances it was held that the profits earned from 30th July 1941 to October, 20, 1941 were the individual incomes of the members. The Court also considered Medam Gurumurthy Setty V. Commissioner of Income-tax (1944) 12 I.T.R. 176 and Sir Sundar Singh Majithia V. Commissioner of Income-tax (1942) 10 I.T.R. 457.

STUDENT'S CORNER

Principles of Auditing with Special Reference to Joint Stock Banks.

(T. K. MENON, B.A., G.D.A., R.A.)

The general principles and purposes sought to be achieved by auditing the accounts of a business are too well known. Reference is here made of the general principles of Auditing and the duties of an Auditor only in a very brief way.

An audit has been defined as "such an examination of the books, accounts and vouchers of a business as shall enable the Auditor to satisfy himself whether or not the Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of affairs of the business, according to the best of his information and the explanations given to him and as shown by the books; and if not, in what respects it is untrue or incorrect." From this definition it should not be understood that the whole duty of the Auditor is to compare the Balance Sheet with the books to see that it agrees therewith. It is not sufficient for him merely to examine the books of Account, he must take measures to satisfy himself that the books faithfully reflect the true position, that is to say, he must, by the exercise of reasonable skill and diligence, see that the transactions recorded in the books are in accordance with the facts so far as it is possible for him to substantiate them from other sources. How far the examination of the books of a business must extend will depend upon the individual circumstances of each case and must be decided by the exercise of the Auditor's judgment. Whatever the extent of the examination, it must be such as will satisfy the Auditor, having regard to whether he is acting under the instructions of his clients or under any Law governing the institution he is auditing.

The principal objects in view when the audit of a business is contemplated are the detection of errors and the discovery and prevention of fraud. An audit is supposed to bring errors to light, both clerical and of principle. Fraud in connection with accounts are mainly defalcations involving misappropriation of money or goods and fraudulent manipulation of accounts not involving actual defalcation. The plan upon which every audit should be conceived ought to be such as to leave nothing to chance in connection with the verification of those classes of transactions, which offer special facilities for fraud, the principal of which are cash transactions and transactions relating to the purchase and sale of goods.

Having considered briefly the general principles and objects of auditing, we will now turn our attention to the duties of An Auditor of a Limited Company under the Indian Companies Act.

The Companies Act requires that every Company should appoint an Auditor or Auditors at each Annual General Meeting. The Auditors so appointed are required by Law to make a report to the Shareholders on the Accounts examined by them and on every Balance Sheet and Profit and Loss Account laid before the Company in General Meeting. Their report must state whether or not they have obtained all the information and explanations they have required, whether or not in their opinion, the Balance Sheet and Profit and Loss Account are drawn up in conformity with the Law, whether or not the Balance Sheet exhibits a true and correct view of the state of the Company's affairs according to the best of their information and the explanations given to them and as shown by the books of the Company and whether, in their opinion, books of account have been kept by the Company as required by Law.

The Auditor is the servant of the Shareholders and it is his duty to see that the accounts presented to the Shareholders by the Board of Directors correctly represented the state of affairs of the Company and that the Directors had not utilised their position for the purpose of misappropriating the funds of the Company or using them for their private gain. The duties of an Auditor of a Limited Company being prescribed by Statute, no limitations can be placed on such duties either by the Articles of Association or by any Resolution of the Directors or Shareholders. Where the Auditor is in conflict with the wishes of the Directors regarding the treatment of certain transactions in the Accounts of the Company or a difference of opinion has arisen between the Auditor and the Directors as to the correctness of the Balance Sheet and the Directors do not see their way to adjust or amend the accounts as desired by the Auditor, the only course open to the Auditor is to state the true position clearly in his report.

On being appointed as the Auditor of a Limited Company, the Auditor should first ascertain that his appointment is validly made. He should then examine the Memorandum and Articles of Association of the Company paying special attention to the objects of the Company, the details as regrards Share Capital, in what respects the Articles of Association differ from the provisions of "TABLE A" in the Companies Act, the number, remuneration, qualification and the powers of Directors and any special regulations regarding Dividends and Reserves.

If the Company is a new one, the Auditor will have to audit all transactions relating to the issue of shares and verify the total paid up capital with the Share Register. He will also have to verify in detail such items as Preliminary Expenses, Underwriting Expenses and transactions relating to the purchase of the business from the Vendors and the payment of their consideration in cash or by the issue of Shares fully or partly paid up. In this connection the Auditor should examine all Contracts relating to the purchase of property, payment of Commission or preliminary expenses.

We will now consider in greater detail the work of an Auditor appointed to audit the Accounts of a Joint Stock Bank. According to the amended Indian Companies Act, a Banking Company is defined as a Company which carries on as its principal business the accepting of deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or order. It may engage, in addition, in certain other forms of business which are specified in section 277-F. clauses 1 to 17. The amended Companies Act also provides that no Banking Company incorporated after the commencement of the Amending Act will be entitled to commence business till a paid up Capital of Rs. 50,000 is raised and a declaration to that effect duly verified by an affidavit signed by the Directors and the Manager is filed with the Registrar of Joint Stock Companies.

On being appointed as Auditor of a Bank, the Auditor should obtain from the management a list of books maintained by the Bank and a written statement of the system of Internal Check in operation. The system of Internal Check in every Bank should be such that the record of every transaction in the Books will be checked by some one other than the person responsible for making the same. According to a well-known authority on Auditing, the following are the more important points to be included in a system of Internal Check for a Bank.

(1) The Ledger Clerks should be changed about from time to time, without previous notice:

(2) Each clerk should be required to take his annual holiday and to take it at one time without a break.

(3) The Cashiers should not have access to the Customer's Ledgers.

(4) The Ledger Clerks should not have any access to the Cash Book. or Day Book.

(5) The Cash Book should from time to time be compared with the actual records by independent and responsible officials and subsequently with the Ledgers.

(6) No Ledger Keeper should be a party to testing his own work.

(7) The periodical balancing of the Customers Ledgers with the General Ledger, should be performed by independent officers selected by the Accountant or Manager.

(8) At intervals the testing of the Ledgers should include the "sides" of the Account, thus affording a comparative check with the Total Summation Book to which the aggregates of receipts and payments are posted every day.

(9) The Branches should be subject to frequent audits without notice by Travelling Auditors or Inspectors.

(10) An occasional audit by the Bank's Inspector should be in force in respect of the Head Office in the same manner as the Branches.

(11) Neither Cashiers nor Ledger Keepers should participate in the preparation or the checking of the Bank Pass Books, which should be checked by the Bank's officials independently of the Company's Auditors.

After having satisfied himself that there is a good system of Internal Check in operation, the Auditor should devote his attention to the verification of the assets of the Bank which forms the most important duty he has to perform in any audit. I shall describe the work to be done by an Auditor in this connection by taking the items of assets as they should appear in the Balance Sheet according to the Indian Companies Act.

(Will continue)

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.

Q. 22. "A", a shareholder of a public Limited Company pledges his share holdings with "B" the Bankers. The Bankers wrote to the Company that the shares are then under their custody, having secured a lien on the shares and that the future dividends should be paid to them. The Company is asked to register in its books the fact of the lien. Should the Company take cognisance of such notifications and if so under what Section? Is there any obligation to file any such details with the Registrar of Joint Stock Companies?

Q. 23. Interest on debentures is treated as admissible expenditure for Income-tax purposes. The character of the debenture undergoes an alteration by the issue of Preference Share Capital. The payment of interest however is continued, now, under the guise of a fixed Dividend, making it obligatory to pay at quarterly intervals just like the interest payments before. The payment of the fixed dividend is claimed as allowable expenditure for Income-tax purposes. Is this claim right?

"C.S"

Q. 24. I, as the sole proprietor want to do business in an assumed name. What is the procedure for registering the name so as to prevent the same name being used by another person in the same business.

Q. 25. A partnership deed was executed in 1943 on 12as. stamp paper. Can the Incometax Officer refuse Registration of the firm under Sec. 26A or will it meet the requirements of the stamp law if stamp paper of the appropriate value is attached to the original document?

Q. 26. Will any of your readers be good enough to give me with reference to one or more dyeing factories in MADURA the total weight of dyes consumed, the value of such dyes, the total weight of chemicals consumed, the value of such chemicals and the total number of yarn bundles (5 lbs.) dyed during the accounting year *Subhanu* or the year ended 31-3-44.

S.R.

(Answers to Questions.)

Q. 20. Professional Etiquette. Mr. X was appointed the first auditor of an Educational Institution, which office he has held for two consecutive years. In the third year, without any information to Mr. X, Mr Y has accepted the audit. Does this constitute a breach? If so what is the remedy and who is to take the initiative in bringing it to the notice of the authorities?

"S. R."

A. There are certain acts, commissions and omissions, by an accountant which are deemed to be Breaches of Professional Propriety. They are more particularly described in pages 25-27 of the Auditors Certificates Rules, 1932, and shall apply both to R. C. As. and R. As. The breach of the description of the question falls under Para 3 or 3 A of the Appendix and certainly it is a breach of Professional Propriety in so far as it relates to Indian Companies Act 1913. The party who is aggrieved has to take action in the matter. As regards the remedy the aggrieved party can do nothing but to report the matter to the Central Government and be prepared to prove the case to the entire satisfaction of the Government. Discretion to take action is vested in the Central Government by virtue of Rule 14 (1) (d).

"Raj"

Q. 21.—A. B. & Co., a Registered Firm for incometax, consisted of two partners, one, a Hindu undivided family and the other an individual. In the middle of the accounting year 1945-46 the members of family got divided. The entire rights of the family in the said firm was allotted to the share of one son who has entered into a fresh partnership deed with the other partner. The accounts of the partnership were not closed upto the date of the partition but continued to the end of the usual accounting period. Is the Incometax Department right in requiring two separate returns one for the old firm and another for the new one? While making the partition the family has allowed to the firm an estimated sum of Rs.2500/- as probable bad debts which was debited to the joint family capital account and credited to the firm's profit and loos account. The firm has in the usual course written off some of its debts as bad. Are these bad debts claimable in the assessment of the new firm or are they to be set off only against the sum of Rs. 2500/- above referred to?

"S. R."

Q. A. On the facts as stated a succession within the meaning of section 26 (2) has taken place during the accounting year by the Hindu joint family retiring from the partnership and a fresh partnership being entered into between the son and the old partner. In the circumstances, the predecessor and the successor are to be taxed each in respect of his actual share of the profits of the previous year and therefore the Incometax Officer is right in asking that two separate returns should be sent, one for the old firm and the other for the new one. It may be that the books were not closed on the date of succession and therefore the actual profits during the respective parts of the accounting period may not be easy of exact ascertainment. All the same, an estimate has got to be made as nearly as possible to the correct income and two separate returns, one by the predecessor firm and the other by the successor firm should be made.

As regards the bad debts the question is one of fact. If the debts had become bad and are claimable as a fact by the old firm, the claim should be made in the return of the old firm. The fact that as between the two partners of the old firm a sum of Rs. 2500 was estimated and debited to the joint family capital account may be an arrangement as between the partners, but as regards the Incometax Department, it is a matter for proof in the usual way.

If on the other hand, the debts had not become bad during the period of the old firm but only later on, it will be a bad debt of the new firm to be allowed for in its assessment in the usual way. The question of setting it off against the sum of Rs. 2500 does not concern the Department.

"T. V."

Letters.

Sir,

I appreciate your notes on the appointment of auditors appearing in your June '1946 issue. I should think you have been very mild when you suggest that the management influence the election of auditors. In the majority of companies the management appoint the auditor and the election by the General Body is a mere farce. Few members of the General Body, in my opinion, know their rights and the few that try to exercise it are coerced into silence by the management. A shareholder who had sent in a nomination of an auditor was successfully influenced to withdraw it by the managing agents.

Some public Companies have created a convention of changing the auditor every second or third year. Such a convention is in my opinion, very healthy for the company as well as the profession. I request you to invite the considered opinion of your numerous readers on this topic.

Sir,

In your issue of September 1945 you had advocated the formation of more firms of accountants. There are several accountants in India who practice under a name which sounds like that of a firm —sometimes by the mere addition of "& Co." and sometimes even altering the name say 'S.R.N.' & Co." I shall be obliged to have the opinion of your esteemed readers on the moral and legal aspect of this practice which has come to stay.

A joint stock company may not be floated to set up or acquire a professional practice. But one individual can carry on a practice in the name of another or others. Tom, Dick and Harry can acquire the practice of Messrs. White and Black and continue to practice under the acquired name. Do the clients in all cases know the partners or are they merely satisfied with the old name? What steps are required to be taken by the partners to inform the old clients of the change in the constitution? A clarification of these points would I believe be of use to the practising Accountants and the clientele.

"S.R."

NOTIFICATIONS.

Income Tax Appellate Tribunal (Destruction of Records) Rules 1946.

Notification No. F. 27/46 I.T.A.T. dated the 22nd July, 1946.

In exercise of the powers conferred by Section 3 of the Destruction of Records Act, 1917, (V of 1917), the Central Government is pleased to make the following rules, namely :—

1. These rules may be called the Income-tax Appellate Tribunal (Destruction of Records) Rules, 1946.

2. The records and registers of the Income-tax Appellate Tribunal specified in Column 1 of the following table may be destroyed at the end of the period specified in the corresponding entry in Column 2 thereof.

Description of records or registers (1)	Period 2
1. *Appeal Records.*	
(*i*) Order Sheet, memo of appeal, treasury receipt for the Tribunal's fee, Tribunal's order and order if any for refund of fee paid in excess.	12 years from the date of the Tribunal's final order in the appeal.
(*ii*) Documents other than those referred to in (*i*).	3 years from the date of the Tribunal's final order in the appeal.
2. *Reference Application Records.*	
(*i*) Copies of judgments of the High Court or the Privy Council, if any.	12 years from the date of the Tribunal's final order in the connected appeal.
(*ii*) Documents other than those referred to in (*i*)	3 years from the date of the Tribunal's order in the connected appeal.
3. Register of Appeals, Register of E.P.T. Appeals and Disposal Register.	3 years from the latest date of disposal of appeal in the register.
4. Register of Reference Application.	3 years from the latest date of disposal of application in the register.

Excess Profits Tax (Post-War) Refunds Rules, 1942—Amendments.

Notification No. 3, dated the 26th October, 1946.

In exercise of the powers conferred by sub-section (3) of Section 10 of the Indian Finance Act, 1942 (XII of 1942), read with sub-section (5) of Section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), the Central Government is pleased to direct that the following further amendments shall be made in the Excess Profits Tax (Post-war Refunds) Rules, 1942, namely :—

1. In the said Rules, after rule 8, the following rule shall be inserted, namely :—

"9. (1) An application for refund of a deposit made under the Finance Act or the Ordinance shall be made in Form E.P. 4-21 to the Excess Profits Tax Officer and the Excess Profits Tax Officer shall refund the amount deposited to the person who made the deposit.

Provided that—

(*i*) in the case of an individual who, at the time when the deposit is refundable, is dead, refund shall be made to the person, who, under a letter of administration, probate or succession certificate, entitled thereto;

(*ii*) in the case of a Company which, at the time when the deposit is refudable, is in course of winding up, refund shall be made to the Liquidator of the Company;

(*iii*) in the case of a Hindu undivided family which, at the time when the deposit is refundable, has been disrupted the refund shall be made to the person or persons to whom the deposit was assigned upon such disruption;

(*iv*) in the case of a firm the constitution of which, at the time when the deposit is refundable, is different from its constitution during the chargeable accounting period in respect of which the deposit was made, refund shall be made to the firm as constituted when the refund is due;

(*v*) in the case of a firm, which, at the time when the deposit is refundable, is no longer in existence, refund shall be made jointly to the persons who were partners in the firm during the chargeable accounting period in respect of which the deposit was made, or to any person jointly nominated by them to receive the refund, with the substitution in the case of a deceased partner of the administrator or other legal representative.

Provided further that, if the identity of the person entitled under the preceding provisions to receive a refund is in dispute or if any substantial question of title is, in the opinion of the Excess Profits Tax Officer, involved; such Officer may require the production of an order of the Competent Civil Court determining the person entitled to refund or any part thereof.

(2) Any refund made in accordance with sub-rule (1) shall be deemed to be a full and valid discharge of the liability of the Central Government under the Finance Act or Ordinance, and the person to whom the refund is made shall be responsible for any liability arising out of a claim by any other person in respect of such refund."

II. In the Forms appended to the said Rules, after Form E.P. 4-17, the Following Form shall be inserted, namely :—

FORM E.P. 4-21.
Excess Profits Tax.

Application for the Refund of deposits made under the provisions of Section 10, Finance Act, 1942, and Section 2 of Excess Profits Tax Ordinance, 1943.

To

The Excess Profits Tax Officer, at......
....

The following sums deposited by.......
..................with the Government of India under the provisions of Section 10 of the Finance Act, 1942, and/or Section 2 of the Excess Profits Tax Ordinance, 1943, are refundable not later than the ....day of...................194 .

Schedule of Sums Deposited

Chargeable Accounting Period		Sums deposited	Date (s) on which Sums deposited.
Commencing	Ending	Rs.	

I/We do hereby pray for a refund of the amount together with interest thereon, under the provisions of rule 9 of the Excess Profits Tax (Post-War Refunds) Rules, 1942.

I/We hereby agree that the payments authorised may be treated as provisional subject to readjustment in due course on the basis of audited figures, and I/We hereby undertake to repay the excess amount, if any, refunded by Government either in respect of the sum deposited by me/us, or in respect of the relative interest thereon.

I/We further agree that if any claim is made by any other person in respect of the deposit, refund of which is claimed hereby I/We shall be responsible therefor.

Signature and Address of each claimant.

Signature Address Capacity* Date
....
....
....
....
....
....

E. P. 4-21 *See note below.

**Note.*—The application and verification are to be signed

(*a*) in the case of an individual, by the inividual himself;

(*b*) in the case of an individual who is dead, by the person, who, under a letter of administration, probate or succession certificate, is entitled to the refund;

(*c*) in the case of a Company, local authority, or any other public body, by the principal officer, as defined in sub-section (12) of Section 2 of Indian Income-tax Act, 1922;

(*d*) in the case of Company which is in the course of winding up, by the liquidator of the Company;

(*e*) in the case of a Hindu Undivided Family, by the Manager or *Karta*;

(*f*) in the case of a Hindu Undivided Family which is disrupted, by the person or persons to whom the deposit was assigned at the time of the disruption;

(*g*) in the case of a Firm, by any partner;

(*h*) in the case of Firm which has ceased business, by all the partners constituting the firm during the relevant chargeable accounting period, with the substitution in the case of a deceased partner of the administrator or other legal representative."

INCOME-TAX

Notification No. 34 dated 23rd November, 1946.

A list of associations, universities, colleges and institutions approved by the prescribed for the purpose of clause (xiii) of sub-section (2) of Section 10 of the Indian Income-tax Act, 1922 (XI of 1922), is published for general information.

LIST.

Agricultural Research Associations

1. All India Bee Keepers' Association, Ramgarh, District Nainital, U. P.
2. Botanical Survey of India, Calcutta.
3. Bombay Natural History Society, Bombay.
4. Central Board of Irrigation, Simla.
5. Current Science Association, Bangalore.
6. Entomological Society of India, Cawnpore.
7. Geological Survey of India, Dehra Dun.
8. Imperial Chemical Industries, Calcutta.
9. Imperial Council of Agricultural Research, New Delhi.
10. Indian Academy of Science, Bangalore.
11. Indian Botanical Society, Government College, Lahore.
12. Indian Central Cotton Committee, Bombay.
13. Indian Central Coconut Committee, Ernakulam.
14. Indian Central Jute Committee, Calcutta.
15. Indian Central Oilseeds Committee.
16. Indian Central Sugarcane Committee, New Delhi.
17. Indian Central Tobacco Committee Bombay.
18. Indian Coffee Board, Bangalore.
19. Indian Chemical Society, Calcutta.
20. Indian Lac Cess Committee, Ranchi.
21. Indian Rubber Production Board, Kottayam, Travancore State.
22. Indian Science News Association, Calcutta.
23. Indian Society of Genetics Plant Breeding, New Delhi.
24. Indian Society of Soil Science, Calcutta.
25. Indian Tea Association, Calcutta.
26. Indian Tea Market Expansion Board, Calcutta.
27. Meteorological Department, Poona.
28. National Academy of Science, Allahabad.
29. Punjab Board of Economic Enquiry, Lahore.
30. Royal Asiatic Society, Calcutta & Bombay.
31. United planters' Association of South India, Coonoor.
32. Vivekanand Laboratories, Almora.
33. Zoological Survey of India, Calcutta.

Scientific and Industrial Research Association

1. B. B. & C. I. Railway Workshop, Ajmer
2. Bengal Potteries Ltd., Calcutta.
3. Bhowmik (Mr. B. B.) Radan House 89, Kalighat Road, Calcutta.
4. Biochemical Standardisation Laboratory, Calcutta.
5. Botanical Survey of India, Calcutta.
6. Council of Scientific & Industrial Research, New Delhi,
7. Indian Central Cotton Committee, Matunga, Bombay.
8. Indian Crucible Co., Ltd., 16, Sibogopal Banerjee Lane, Salikia, Howhrah,
9. Indian Meteorlogical Department, Delhi.
10. Mysore Iron and Steel Works, Bhadravati.
11. Provincial Broadcasting Department, Madras.
12. Royal Botanical Gardens, Calcutta.
13. Tata Iron and Steel Industry, Jamshedpur.

Associations Connected with Research work in Medicine.

1. Enquiries conducted under the auspices of the I. R. F. A, New Delhi.
2. Indian Research Fund Association New Delhi.
3. Medical Council of India, New Delhi.
4. Nutrition Research Laboratories Coonoor.
5. Parlakimedi Trust Fund, New Delhi.
6. Tuberculosis Association of India, New Delhi.

Universities

1. Agra University, Agra.
2. Allahabad University, Allahabad.
3. Andhra University, Guntur.
4. Annamalai University, Annamalainagar.
5. Bombay University (Chemical Technological Department) Bombay.
6. Calcutta University, (University College of Science) Calcutta.
7. Dacca University, Dacca.
8. Delhi University, Delhi.
9. Hindu University, Benares.
10. Lucknow University, Lucknow.
11. Madras University, Madras.
12. Muslim University, Aligarh,
13. Mysore University, Bangalore.
14. Nagpur University, Nagpur.
15. Patna University, Patna.
16. Punjab Univeristy, Lahore.
17. Travancore University, Trivandrum.
18. Usmania University, Hyderabad (Deccan).
19. Utkal University, Cuttack.
20. Women's University, Bombay.

Colleges.

1. Agricultural College, Cawnpore.
2. Agricultural College, Lyallpur.
3. Agricultural College, Nagpur.
4. Agricultural College, Poona.
5. Agricultural College, Sabour, Bihar.
6. Agricultural College, Saidapet.
7. Agricultural College, Sakrand, Sind.
8. Amar Singh K. E. M. U. Jat College, Lakhaoti, U. P.
9. Balwant Agricultural College, Agra.
10. Forman Christian College, Lahore.
11. Government College Lahore.
12. Indian School of Mines, Dhanbad.
13. Islamia College, Peshawar.
14. Khalsa College, Amritsar.
15. King George's Medical College, Lucknow.
16. Presidency College, Calcutta.
17. Presidency College, Madras.
18. Recognised Medical Colleges.
19. Science College, Patna.
20. Tropical School of Medicine, Calcutta.
21. Veterinary College, Bengal.
22. Veterinary College, Lahore.
23. Veterinary College, Madras.

24. Veterinary College, Patna.
25. Veterinary College, Poona.

Institutions

1. Agricultural Research Institute and College, Coimbatore.
2. Allahabad Agricultural Institute Allahabad
3. Bengal Agricultural Research Institute, Dacca.
4. Bengal Tanning Institute.
5. Bose Research Institute, Calcutta.
6. Central Irrigation Research Institute, Poona.
7. Central Research Institute, Trivandrum.
8. Forest Research Institute and College, Dehra Dun.
9. Government Silk Institute. Nathnagar, Bagalpore
10. Imperial Agricultural Research Institute, New Delhi.
11. Imperial Dairy Research Institute, Bangalore.
12. Imperial Veterinary Research Institute, Muktesar Izatnagar, U. P.
13. Imperial Institute of Sugar Technology, Cawnpore.
14. Indian Institute of Fruit Technology, Lyallpur.
15. Indian Institute of Science, Bangalore.
16. Indian Statistical Institute, Calcutta.
17. Institute of Agriculture, Anand
18. Institute of Plant and Industry, Indore.
19. Irrigation Research Institute, Lahore.
20. Laxmi-Narain Institute of Technology, Nagpur.
21. National Institute of Science in India Calcutta.
22. Nutritional Research Institute, Coonoor.
23. River Research Institute, Bengal, Calcutta,
24. Royal Institute of Science, Bombay.
25. Silk Research Institute, Berhampore.
26. Tata Institute of Fundamental Research, Bombay.
27. Technological Institute, Baroda.
28. Victoria Jubilee Technical Institute. Bombay.
29. Vishvabharti Institute, Calcutta.

Notification No. 24-D dated the 23rd November, 1946.

In exercise of the powers conferred by sub-section (3) of Section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to cancel the notification of the Finance Department (Central Revenue) No. 39 Income-tax, dated 29th July, 1939.

Notification No. 35 dated the 30th November, 1946.

In exercise of the powers conferred by sub-section (1) of Section 59 of 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 Rule 45 of the said Rules in entry 7 for the words "All-India Board of Technical Studies in Commerce Business Administration and Economics of the All-India Council for Technical Education, the words "All-India Board of Technical Studies in Commerce and Business Administration of the All-India Council for Technical Education, Government of India, Education Department, New Delhi" shall be substituted.

Notification No. 2 dated 18th January, 1947.

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 :—

For Form R(T) appended to rule 22-A of the said Rules the following form shall be substituted, namely :—

"FORM R(T)

Form of Section 66(1) Reference application.

IN THE INCOME-TAX APPELLATE, TRIBUNAL BOMBAY.

In the matter of the assessment of (name of the assessee) R.A.No............ ....of 194- /4 . (to be filled in by the office).

Applicant..........v...........Respondent
Province from which the application is filed..........................

Name and number of the appeal which gives rise to the reference.........
....

The applicant states as follows:—

1. that the appeal noted above was decided by the.................................. Bench of the Tribunal on..................

2. that notice of the order under sub-section (4) of Section 33 of the Indian Income-tax Act, 1922 was served on the applicant on.........................

3. that the facts which are admitted and/or found by the Tribunal and which are necessary for drawing up a statement of the case, are stated in the enclosure for ready reference.

4. that the following questions of law arise out of the order of the Tribunal

(1)

(2)

(3)

5. that the applicant, therefore, requires under subsection (1) of section 66 of the aforesaid Act that a statement of the case be drawn up and questions of law numbered...............out of the questions of law referred to in paragraph 4 above be referred to the High Court.

6. that the documents or copies thereof, as specified below (the translation in English of the documents where necessary, is annexed) be forwarded to the High Court with the statement of the case.

Signed
(applicant)

Signed
(authorised representative, if any).

N. B.—The Application where it is made by the assessee, must be accompanied by a treasury receipt for Rs. 100;

Income-tax Appellate Tribunal.

Church Gate, Bombay.

Dated 3rd December, 1946.

The attention of the public as well as the officers of the Income-tax Department is drawn to the fact that the Tribunal Rules have recently been revised and the new Income-tax Tribunal Rules of 1946 have been published in the Gazette of India dated 16th November, 1946, Part II-Section 2 on page 606. The public may obtain copies of these Rules on payment or by V. P. P. from the Manager of Publications, Civil Lines, Delhi.

Particular attention is invited to the following rules:—

(10) (1):—Every memorandum of appeal shall be in triplicate and shall be accompanied by two copies (at least one of which shall be a certified copy) of the order appealed against and two copies of the order of the Income-tax Officer.

35.—An application for reference, under sub-section (1) of section 66 shall be in triplicate and shall be accompanied by a list of documents (particulars of which shall be stated) which the applicant desires to be forwarded to the High Court, and a translation in English of any such document where necessary.

Assessee-appellants are further requested to pay the Tribunal fee into the local treasury and attach the triplicate of the chalan to the appeal papers.

K. SRINIVASAN.
Registrar.

Auditor's Certificates Rules, 1932.

Notification No. 1A (5) /46 dated 28th December, 1946. 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:—

For Appendix 4 to the Auditor's Certificates Rules, 1932, the following appendix shall be substituted, namely:—

"APPENDIX 4.

Certificate to be signed by the Head of an institution recognised under Rule 22 (3) (b) (i) of the Auditor's Certificates Rules, 1932.

(To be sent so as to reach the Secretary of the Government of India, Department of Commerce, New Delhi, at least three weeks before the commencement of the Examination).

I certify that...............has attended ....out of....................lectures- and.............out of...........lectures delivered for Group I and Group II respectively, of the First Examination under the Auditor's Certificates Rules, 1932, during............................

I also certify that he has attended ....out of..............tutorial lectures and..................out of .... tutorial lectures delivered for Group I and Group II, respectively, of the First Examination under the Auditor's Certificates Rules 1932, during......................

I further certify that to the best of my knowledge and belief, he bears a good moral character and that I consider him a fit person to appear at the said Examination.

(Signature).....................

(Designation)...................

Date..................

Note:—Candidates are required to attend at least 75 per cent. of the number of lectures delivered for each Group. They are also required to attend at least 75 per cent. of the tutorial lectures delivered for each Group. The tutorial lectures shall be at least 25 per cent. of the other lectures.

Notification No. 7-A(1)/45 dated the 18th January 1947.

In pursuance of clause (iii) of sub-clause (a) of clause (3) of rule 22 and clause (b) of rule 41 of the Auditor's Certificates Rules, 1932, the Central Government is pleased to direct that the following amendment shall be made in the notification of the Government of India in the Department of Commerce No. 7-A(1)/45, dated the 22nd June, 1946, namely:—

In the said notification—

(1) For item 1 the following item shall be substituted, namely:—

"1. The Intermediate Examination of a University constituted by law in British India or British Burma or of the, University of Mysore or of the Osmania University or of the University of Travancore, or of a University in Great Britain and Northern Ireland or of a Board of Intermediate Examination in India established by a resolution of Government."

(2) Item 9 shall be omitted.

COMPANY LAW

New Delhi, the 28th December 1946.

No. 24(42)—TR .(C.L.)/ 45.—In exercise of the powers conferred by section 3 of the Registration of Transferred Companies Ordinance, 1942, (No. LIV of 1942), the Central Government is pleased to direct that the following amedment shall be made in the notification of the Government of India in the Department of Commerce, No. 23(47)—Tr. (C.L.)/42, dated the 30th January, 1943, namely—

In the said notification, after the word and figure "section 2", the words, figure and letter "and section 2A" shall be inserted.

LEGISLATIVE ENACTMENTS.

Banking Companies (Restriction of Branches) Act, 1946.

(Received the assent of the Governor-General on 22nd November, 1946).

ACT. NO. XXVII of 1946.

An Act to restrict the opening and removal of branches by banking companies.

WHEREAS it is expedient to restrict the indiscriminate opening and removal of branches by banking companies;

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Banking Companies (Restriction of Branches) Act, 1946.

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

2. In this Act,—

Interpretation.

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

(b) "branch" includes any sub-office, pay-office, sub-pay-office, and any place of business of a banking company at which deposits are received, cheques cashed or moneys lent;

(c) the expression "officer" has the meaning assigned to it in the Indian Companies Act, 1913;

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

Restriction on opening and removal of branches.

3. (1) No banking company shall open a new branch or change the location of an existing branch without obtaining prior permission in writing from the Reserve Bank.

(2) The Reserve Bank may, before giving the permission referred to in sub-section (1) to any banking company, take into consideration its financial condition and history, the general character of its management, the adequacy of its capital structure and earning prospects and the public interest to be served by the branch.

(3) For all or any of the purposes referred to in sub-section (2), the Reserve Bank may, with the previous approval of the Central Government, cause an inspection to be made of the books, accounts and other documents of the banking company by any competent person authorised by the Reserve Bank, 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.

(4) Any person making an inspection under sub-section (3) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.

Penalty

4. (1) If any banking company opens a branch or changes the location of an existing branch in contravention of Section 3, every director or other officer of the banking company who is knowingly and wilfully a party to the contravention shall be liable to a fine which may extend to one hundred rupees for every day during which that branch remains open for business or, as the case may be, the change in its location continues.

(2) if any person refuses to produce any book, account or other document which under Section 3 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.

Registration of Transferred Companies (Amendment) Act, 1946.

(Received the assent of the Governor-General on the 22nd November, 1946.)

ACT No. XXX of 1946.

An Act to amend the Registration of Transferred Companies Ordinance, 1942.

Whereas it is expedient to amend the Registration of Transferred Companies Ordinance, 1942, for the purpose hereinafter appearing;

It is hereby enacted as follows :—

Short Title

1. This Act may be callled the Registration of Transferred Companies (Amendment) Act, 1946.

Insertion of new Section 2A in Ord. LIV of 1942.

2. After Section 2 of the Registration of Transferred Companies Ordinance, 1942 (hereinafter referred to as the said Ordinance), the following section shall be inserted, namely :—

Cancellation of Registration

"2A. The Central Government may at any time by order cancel the registration of any company under this Ordinance on such terms and conditions as may be specified in the order."

Amendment of Section 3, Ord. LIV of 1942.

3. In Section 3 of the said Ordinance, for the words, figures and brackets "by Section 2, except the power to make rules conferred by sub-section (3) of that section" the following shall be substituted, namely :—

"by Section 2 (except the power to make rules under subsection (3) thereof) and Section 2A."

RESERVE BANK OF INDIA (AMENDMENT) ACT, 1946.

(Received the assent of the Governor-General on the 16th November, 1946)

ACT NO. XXIII OF 1946.

An Act further to amend the Reserve Bank of India Act, 1934.

WHEREAS it is expedient further to amend the Reserve Bank of India Act, 1934, for purposes hereinafter appearing;

It is hereby enacted as follows ;—

Short title

1. This Act may be called the Reserve Bank of India (Amendment) Act, 1946.

Amendment of Section 31, Act II of 1934.

2. Section 31 of the Reserve Bank of India Act, 1934, shall be renumbered as sub-section (1) of that section and to the section as so renumbered the following sub-section shall be added, namely :—

"(2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in British India other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument."

Repeal of Ord. XVII of 1946.

3. The Bearer Promissory Notes (Prohibition of Issue) Ordinance, 1946, is hereby repealed.

L. A. Bill No. 3 of 1947.

A Bill further to amend the Negotiable instruments Act, 1881.

XXVI of 1881.

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881, for the purpose hereinafter appearing :

It is hereby enacted as follows :—

Short Title.

1. This Act may be called the Negotiable instruments (Amendment) Act, 1947.

Insertion of new section 131A in Act XXVI of 1881.

2. To Chapter XIV of the Negotiable Instruments Act, 1881 the following section shall be added, namely :—

Application of Chapter to drafts.

" 131A. The provisions of this Chapter shall apply to any draft, as defined in section 85A, as if the draft were a cheque."

Statement of Objects and Reasons.

The Bombay High Court have held that the protection afforded to bankers under section 131 of the Negotiable Instruments Act, absolving them from liability in respect of payments received in good faith for cheques crossed in their favour is not available to them in respect of bank drafts. This Bill is designed (i) to remove this anomaly by placing bank drafts in this respect on the same footing as cheques and (ii) to regularise the growing practice of crossing bank drafts by making the provisions in the law relating to the crossing of cheques applicable to such drafts.

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(1)	(2)	(1)	(2)

Reg. No. M. 4709

Auditors' Apprentices' Association

MADRAS

Objects:

(1) **To strengthen the bond of brotherhood amongst members.**

(2) **To provide educational facilities.**

(3) **To have a representative voice.**

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For further particulars apply to:

R. SRINIVASAN, B. A.
President.

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