

## 8. SEARCH AND SEIZURE

documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

b) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922, or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

c) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922, or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force, then, the Principal Director General or Director General or Principal Director or Director or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may authorise any Additional Director, Additional Commissioner, Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer (hereafter in this section and in sub-section (2) of section 278D referred to as the requisitioning officer) to require the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

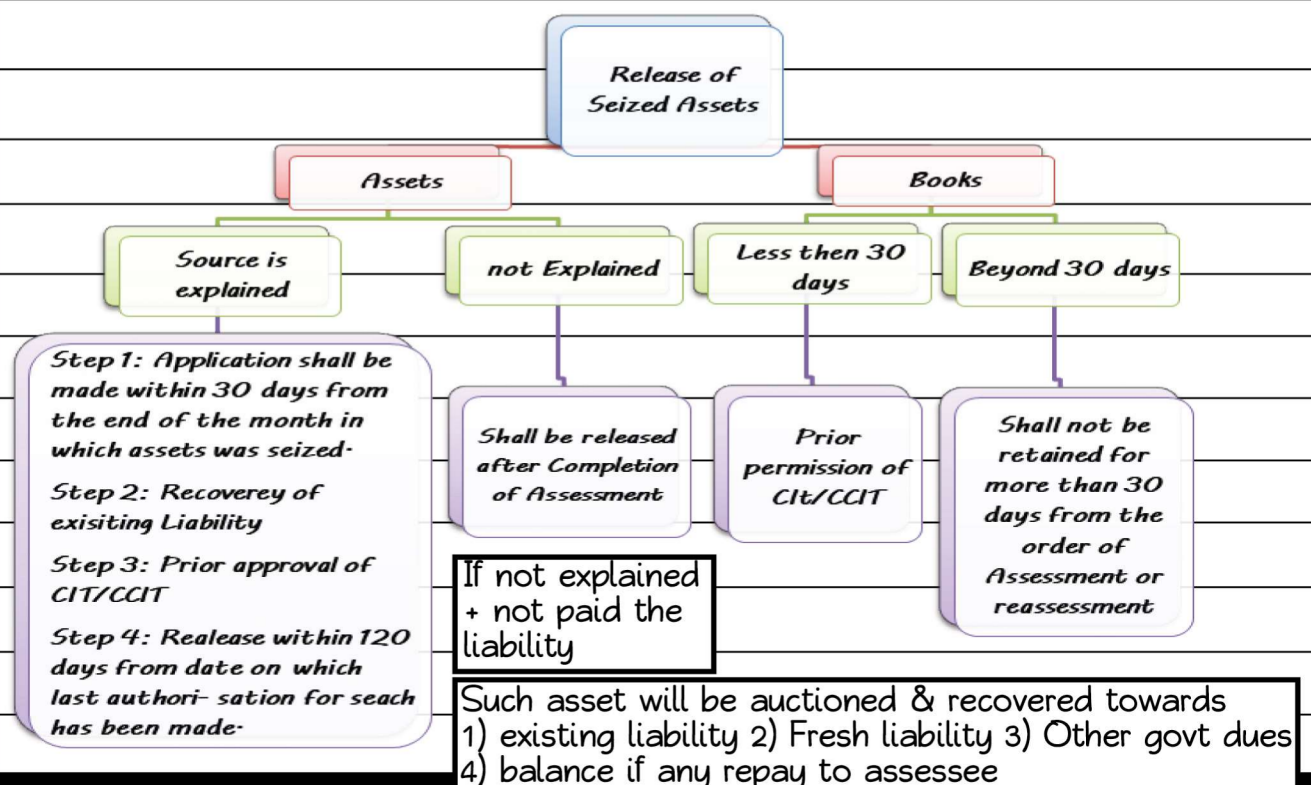
Explanation - For the removal of doubts, it is hereby declared that reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person/any authority/Appellate Tribunal.

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Sec 132A(2) - On a requisition being made under sub-section (1), the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

Sec 132A(3) - Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (1) of section 132 by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (4A) to (14), the words "the requisitioning officer" were substituted.

### Sec. 132B Application of seized or requisitioned assets.



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Sec 132B(1) - The assets seized u/s 132 or requisitioned u/s 132A may be dealt with in the following manner, namely:—

- i) the amount of any existing liability under this Act, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1987, the Gift-tax Act, 1958 and the Interest-tax Act, 1974, and the amount of the liability determined on completion of the assessment u/s 153A and the assessment of the year relevant to the PY in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission u/s 245C(1), may be recovered out of such assets.

Provided that where the person concerned makes an application to AO within 30 days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained to the satisfaction of the AO, the amount of any existing liability referred to in this clause may be recovered out of such asset and the remaining portion, if any, of the asset may be released, with the prior approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, to the person from whose custody the assets were seized:

Provided further that such asset or any portion thereof as is referred to in the first proviso shall be released within a period of 120 days from the date on which the last of the authorisations for search u/s 132 or for requisition u/s 132A, as the case may be, was executed;

- ii) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liability to the extent of the money so applied;

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iii) the assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorisation from the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-section (5) of section 226 and the Assessing Officer or, as the case may be, the Tax Recovery Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule.

Sec 132B(2) - Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

Sec 132B(3) - Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

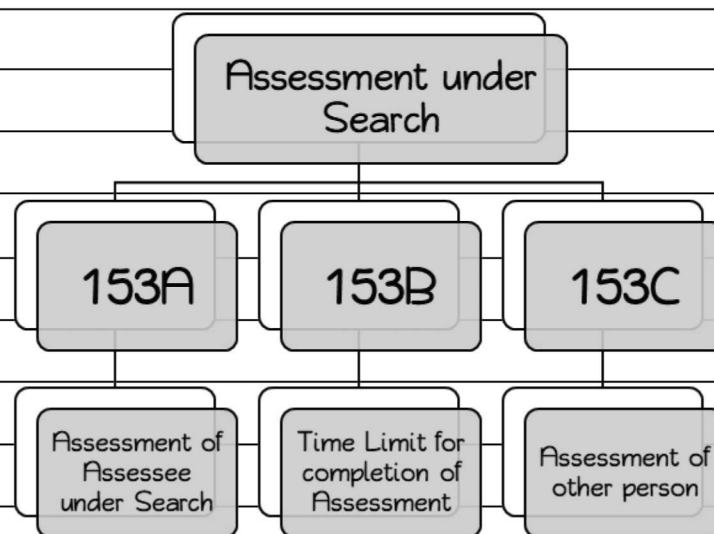
Sec 132B(4) -

- a) The Central Government shall pay simple interest at the rate of 1.5% for every month or part of a month on the amount by which the aggregate amount of money seized u/s 132 or requisitioned u/s 132A, as reduced by the amount of money, if any, released under the first proviso to clause (i) of sub-section (1), and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (i) of sub-section (1), exceeds the aggregate of the amount required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.
- b) Such interest shall run from the date immediately following the expiry of the period of 120 days from the date on which the last of the

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authorisations for search u/s 132 or requisition u/s 132A was executed to the date of completion of the assessment u/s 153A or under Chap XIV-B.

Explanation 2 - For the removal of doubts, it is hereby declared that the "existing liability" does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII.



### Sec. 153A Assessment in case of search or requisition.

Sec 153A(1) - Notwithstanding anything contained in sec 139, 147, 148, 149, 151 & 153, in the case of a person where a search is initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A after the 31st day of May, 2003, the AO shall—

- a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within 6 AYs and for the relevant AY or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were return required to be furnished u/s 139;
- b) assess or reassess the total income of 6 AYs immediately preceding the AY relevant to PY in which such search is conducted or requisition is made

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and for the relevant assessment year or years

Provided that the AO shall assess or reassess the total income in respect of each AY falling within such 6 AYs and for the relevant AY/s

Provided further that assessment or reassessment, if any, relating to any AY falling within the period of 6 AYs & for the relevant AY /s referred to in this sub-section pending on the date of initiation of the search u/s 132 or making of requisition u/s 132A, as the case may be, shall abate :

Provided also that the CG may by rules made by it & published in Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the AO shall not be required to issue notice for assessing or reassessing the total income for 6 AYs immediately preceding the AY relevant to the PY in which search is conducted or requisition is made and for the relevant AY(s)

Provided also that no notice for assessment or reassessment shall be issued by the AO for the relevant AY(s) unless—

- a) the AO has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to 50 lakh rupees or more in the relevant AY or in aggregate in the relevant AYs;
- b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and
- c) the search u/s 132 is initiated or requisition u/s 132A is made on or after the 1st day of April, 2017.

Explanation 1 - For the purposes of this sub-section, the expression "relevant AY" shall mean an AY preceding the AY relevant to the PY in which search is conducted or requisition is made which falls beyond 6 AYs but not later

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than 10 AYs from the end of the AY relevant to the PY in which search is conducted or requisition is made.

Explanation 2 - For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.

Sec 153A(2) - If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner. Provided that such revival shall cease to have effect, if such order of annulment is set aside.

Explanation - For the removal of doubts, it is hereby declared that,—

- i) save as otherwise provided in this section, section 153B & 153C, all other provisions of this Act shall apply to the assessment made under this section;
- ii) in an assessment or reassessment made in respect of an AY under this section, the tax shall be chargeable at the rate or rates as applicable to such AY.

### **Sec.153B Time limit for completion of assessment u/s 153A.**

Sec 153B(1) - Notwithstanding anything contained in sec 153, the AO shall make an order of assessment or reassessment,—

in respect of each AY falling within 6 AYs & for the relevant AY(s) referred to in clause (b) of sub-section (1) of sec 153A, within a period of 21 months

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from the end of the FY in which the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed;

- b) in respect of the FY relevant to the PY in which search is conducted u/s 132 or requisition is made u/s 132A, within a period of 21 months from the end of the FY in which the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed.

Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over u/s 153C to the AO having jurisdiction over such other person, whichever is later

Provided further that in the case where the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed during the FY commencing on the 1st day of April, 2018,—

- i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted;
- ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the FY in which the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed or twelve months from the end of the FY in which books of account or documents or assets seized or requisitioned are handed over u/s 153C to the AO having jurisdiction over such other person, whichever is later.

Provided also that in the case where the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed during the FY



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commencing on or after the 1st day of April, 2019,—

the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "21 months", the words "12 months" had been substituted; the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of 12 months from the end of the financial year in which the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed or 12 months from the end of the FY in which books of account or documents or assets seized or requisitioned are handed over u/s 153C to the AO having jurisdiction over such other person, whichever is later:

Provided also that in case where the last of the authorisations for search u/s 132 or for requisition u/s 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months.

Provided also that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by 12 months.

Sec 153B(2) - The authorisation referred to in clause (a) and clause (b) of sub-section (1) shall be deemed to have been executed,—

- a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued; or
- b) in the case of requisition u/s 132A, on the actual receipt of the books of