

## 8. SEARCH AND SEIZURE

### Sec. 292CC Common Notice

It shall be necessary to issue authorisation u/s 132 separately in the name of each person

If notice is issued mentioning therein, the name of more than one person → the ass. / reass. shall be made accordingly

### Sec 133 Power to call for information

The AO, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals) may, for the purposes of this Act,—

- 1) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;
- 2) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;
- 3) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;
- 4) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than ₹1,000, or such higher amount as may be prescribed, together with particulars of all such payments made;
- 5) require any dealer, broker or agent or any person concerned in management of a stock or commodity exchange to furnish a statement of the names & addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments & receipts;

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6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the AO, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (Appeals), giving information in relation to such points or matters as, in the opinion of the Assessing Officer, the Deputy Commissioner (Appeals), the Joint Commissioner or the Commissioner (A), will be useful for, or relevant to, any enquiry or proceeding under this Act

Provided that the powers referred to in clause (6), may also be exercised by the Principal Director General or Director-General, the Principal Chief Commissioner or Chief Commissioner, the Principal Director or Director or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director.

Provided further that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner, other than the Joint Director or Deputy Director or Assistant Director, without the prior approval of the Principal Director or Director or, as the case may be, the Principal Commissioner / Commissioner.

Provided also that for the purposes of an agreement referred to in sec 90 / 90A, an income-tax authority notified u/s 131(2) may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income-tax authority.

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### Sec. 133B Power to collect certain information

Sec 133B(1) - Notwithstanding anything contained in any other provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, / relevant to, purposes of this Act, enter-

- a) any building or place within limits of the area assigned to such authority; or
- b) any building or place occupied by any person in respect of whom he exercises jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed.

Sec 133B(2) - An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession.

Sec 133B(3) - For the removal of doubts, it is hereby declared that an income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

Explanation - In this section, "income-tax authority" means a Joint Commissioner, an Assistant Director or Deputy Director or an Assessing Officer, and includes an Inspector of Income-tax who has been authorised by the Assessing Officer to exercise the powers conferred under this section in relation to the area in respect of which the Assessing Officer exercises jurisdiction or part thereof.

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### **Sec. 133C Power to call for information by prescribed income-tax authority**

Sec 133C(1) - The prescribed income-tax authority may, for the purposes of verification of information in its possession relating to any person, issue a notice to such person requiring him, on or before a date to be specified therein, to furnish information or documents verified in the manner specified therein, which may be useful for, or relevant to, any inquiry or proceeding under this Act.

Sec 133C(2) - Where any information or document has been received in response to a notice issued under sub-section (1), the prescribed income-tax authority may process such information or document and make available the outcome of such processing to the Assessing Officer.

Sec 133C(3) - The Board may make a scheme for centralised issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer.

Explanation - In this section, the term "proceeding" shall have the meaning assigned to it in clause (b) of the Explanation to section 133A.

### **Sec. 133A Power of survey**

Sec 133A(1) - Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

- a) any place within the limits of the area assigned to him, /
- b) any place occupied by any person in respect of whom he exercises jurisdiction, / any place in respect of which he is authorised for the purposes of this sec by
- c) such ITA who is assigned the area within which such place is situated / who exercises jurisdiction in respect of any person occupying such place, at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business

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or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—

- i) to afford him the necessary facility to inspect such books of account or other documents as he may require & which may be available at such place,
- ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and
- iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation - For the purposes of this sub-section, a place where a business or profession or activity for charitable purpose is carried on shall also include any other place, whether any business or profession or activity for charitable purpose is carried on therein or not, in which the person carrying on the business or profession or activity for charitable purpose states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession or activity for charitable purpose are or is kept.

Sec 133A(2) - An income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

Sec 133A(2A) - Without prejudice to the provisions of 133A(1), an income-tax authority acting under this sub-section may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be, enter, after sunrise and before sunset,

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any office, or any other place where business or profession is carried on, within the limits of the area assigned to him, or any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept and require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work,—

- i) to afford him the necessary facility to inspect such books of account or
- ii) other documents as he may require & which may be available at such place, & to furnish such information as he may require in relation to such matter.

Sec 133A(3) - An income-tax authority acting under this section may,—

- i) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,
- ia) impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him.

Provided that such income-tax authority shall not—

- (a) impound any books of account or other documents except after recording his reasons for so doing; or
- (b) retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner / Chief Commissioner or the Principal Director General or the Director General or the Principal Commissioner or the Commissioner or the Principal Director or the Director therefore, as the case may be,
- ii) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,
- iii) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act

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Provided that no action under clause (ia) or clause (ii) shall be taken by an income-tax authority acting under sub-section (2A)

Sec 133A(4) - An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any cash, stock or other valuable article or thing.

Sec 133A(5) - Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

Sec 133A(6) - If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income-tax authority shall have all the powers u/s 131(1) for enforcing compliance with requirement made.

Provided that-

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- a) in a case where the information has been received from such authority, as may be prescribed, no action under sub-sec (1) shall be taken by an Assistant Director or a Deputy Director or an AO or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint

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Director or the Joint Commissioner, as the case may be;

- b) in any other case, no action under sub-sec (1) shall be taken by a Joint Director or a Joint Commissioner or an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Director or the Commissioner, as the case may be.

### Sec. 132 Search and seizure

Sec 132(1) - Where the Principal Director General / Director General / Principal Director or Director / the Principal Chief Commissioner / Chief Commissioner / Principal Commissioner / Commissioner / Additional Director / Additional Commissioner / Joint Director / Joint Commissioner in consequence of information in his possession, has reason to believe that—

- a) any person to whom a summons u/s 37(1) of the Indian Income-tax Act, 1922, or u/s 131(1) of this Act, or a notice u/s 22(4) of the Indian Income-tax Act, 1922, or u/s 142(1) of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or
- b) 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, any books of account or other documents which will be useful for, or relevant to, any proceeding under Indian Income-tax Act, 1922, or under this Act, or
- c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922, or this Act (hereinafter in this section referred to as the undisclosed income or property),