

CHAPTER IX

THE INCOME DECLARATION SCHEME, 2016

181. (1) This Scheme may be called the Income Declaration Scheme, 2016.

Short title and commencement.

(2) It shall come into force on the 1st day of June, 2016.

182. In this Scheme, unless the context otherwise requires,—

Definitions.

(a) “declarant” means a person making the declaration under sub-section (1) of section 183;

43 of 1961.

(b) “Income-tax Act” means the Income-tax Act, 1961;

(c) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

183. (1) Subject to the provisions of this Scheme, any person may make, on or after the date of commencement of this Scheme but before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year beginning on the 1st day of April, 2017—

Declaration of undisclosed income.

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act;

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme;

(c) which has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

(2) Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this Scheme shall be deemed to be the undisclosed income for the purposes of sub-section (1).

(3) The fair market value of any asset shall be determined in such manner, as may be prescribed.

(4) No deduction in respect of any expenditure or allowance shall be allowed against the income in respect of which declaration under this section is made.

Charge of tax and surcharge.

**184.** (1) Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the undisclosed income declared under section 183 within the time specified therein shall be chargeable to tax at the rate of thirty per cent. of such undisclosed income.

(2) The amount of tax chargeable under sub-section (1) shall be increased by a surcharge, for the purposes of the Union, to be called the *Krishi Kalyan Cess* on tax calculated at the rate of twenty-five per cent. of such tax so as to fulfil the commitment of the Government for the welfare of the farmers.

Penalty.

**185.** Notwithstanding anything contained in the Income-tax Act or in any Finance Act, the person making a declaration of undisclosed income shall, in addition to tax and surcharge under section 184, be liable to penalty at the rate of twenty-five per cent. of such tax.

Manner of declaration.

**186.** (1) A declaration under section 183 shall be made to the Principal Commissioner or the Commissioner and shall be in such form and be verified in such manner, as may be prescribed.

(2) The declaration shall be signed,—

(a) where the declarant is an individual, by the individual himself; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) where the declarant is a Hindu undivided family, by the *Karta*, and where the *Karta* is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(f) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 183 in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration, under that sub-section in respect of his income or the income of such other person, and any such other declaration, if made, shall be void.

Time for payment of tax.

**187.** (1) The tax and surcharge payable under section 184 and penalty payable under section 185 in respect of the undisclosed income, shall be paid on or before a date to be notified by the Central Government in the Official Gazette.

(2) The declarant shall file the proof of payment of tax, surcharge and penalty on or before the date notified under sub-section (1), with the Principal Commissioner or the Commissioner, as the case may be, before whom the declaration under section 183 was made.

(3) If the declarant fails to pay the tax, surcharge and penalty in respect of the declaration made under section 183 on or before the date specified under sub-section (1), the declaration filed by him shall be deemed never to have been made under this Scheme.

**188.** The amount of undisclosed income declared in accordance with section 183 shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the declarant makes the payment of tax and surcharge referred to in section 184 and the penalty referred to in section 185, by the date specified under sub-section (I) of section 187.

Undisclosed income declared not to be included in total income.

27 of 1957.

**189.** A declarant under this Scheme shall not be entitled, in respect of undisclosed income declared or any amount of tax and surcharge paid thereon, to re-open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957, or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

Undisclosed income declared not to affect finality of completed assessments.

45 of 1988.

**190.** The provisions of the Benami Transactions (Prohibition) Act, 1988 shall not apply in respect of the declaration of undisclosed income made in the form of investment in any asset, if the asset existing in the name of a *benamidar* is transferred to the declarant, being the person who provides the consideration for such asset, or his legal representative, within the period notified by the Central Government.

Undisclosed income declared not to be treated as *benami* transaction in certain cases.

**191.** Any amount of tax and surcharge paid under section 184 or penalty paid under section 185 in pursuance of a declaration made under section 183 shall not be refundable.

Tax in respect of voluntarily disclosed income not refundable.

27 of 1957.

**192.** Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under section 183 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty, other than the penalty leviable under section 185, or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act, 1957.

Declaration not admissible in evidence against declarant.

**193.** Notwithstanding anything contained in this Scheme, where a declaration has been made by misrepresentation or suppression of facts, such declaration shall be void and shall be deemed never to have been made under this Scheme.

Declaration by misrepresentation of facts to be void.

**194.** (I) Where the undisclosed income is represented by cash (including bank deposits), bullion, investment in shares or any other assets specified in the declaration made under section 183—

Exemption from wealth-tax in respect of assets specified in declaration.

27 of 1957.

(a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act, 1957, for the assessment year commencing on or before the 1st day of April, 2015; or

(b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years; or

(c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

27 of 1957.

then, notwithstanding anything contained in the Wealth-tax Act, 1957, or any rules made thereunder,—

(i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years;

(ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

*Explanation.*—Where a declaration under section 183 is made by a firm, the assets referred to in sub-clause (i) or, as the case may be, the amount referred to in sub-clause (ii) shall not be taken into account in computing the net wealth

of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-sections (1) and (2) of section 187 are fulfilled by the declarant.

Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.

**195.** The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 119, section 138 and section 189 of that Act or the provisions of Chapter V of the Wealth-tax Act, 1957 relating to liability in respect of assessment in special cases shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceedings under the Income-tax Act or, as the case may be, the Wealth-tax Act, 1957.

27 of 1957.

Scheme not to apply to certain persons.

**196.** The provisions of this Scheme shall not apply—

(a) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

52 of 1974.

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9 of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

(b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967 and the Prevention of Corruption Act, 1988;

45 of 1860.  
61 of 1985.  
37 of 1967.  
49 of 1988

(c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;

27 of 1992.

(d) in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;

22 of 2015.

(e) in relation to any undisclosed income chargeable to tax under the Income-tax Act for any previous year relevant to an assessment year prior to the assessment year beginning on the 1st day of April, 2017—

(i) where a notice under section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act has been issued in respect of such assessment year and the proceeding is pending before the Assessing Officer; or

(ii) where a search has been conducted under section 132 or requisition has been made under section 132A or a survey has been carried out under section

133A of the Income-tax Act in a previous year and a notice under sub-section (2) of section 143 for the assessment year relevant to such previous year or a notice under section 153A or under section 153C of the said Act for an assessment year relevant to any previous year prior to such previous year has not been issued and the time for issuance of such notice has not expired; or

(iii) where any information has been received by the competent authority under an agreement entered into by the Central Government under section 90 or section 90A of the Income-tax Act in respect of such undisclosed asset.

**197.** For the removal of doubts, it is hereby declared that—

Removal of doubts.

(a) save as otherwise expressly provided in sub-section (1) of section 183, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme;

(b) where any declaration has been made under section 183 but no tax, surcharge and penalty referred to in section 184 and section 185 has been paid within the time specified under section 187, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made;

(c) where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme, and no declaration in respect of such income is made under this Scheme,—

(i) such income shall be deemed to have accrued, arisen or received, as the case may be; or

(ii) the value of the asset acquired out of such income shall be deemed to have been acquired or made,

in the year in which a notice under section 142, sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and the provisions of the Income-tax Act shall apply accordingly.

**198.** (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme shall come into force.

(2) Every order made under this section shall be laid before each House of Parliament.

**199.** (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under section 183 and the manner in which the same may be verified.

(3) Every rule made under this Scheme shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.