



# SEARCH AND SEIZURE MANUAL 2025



CENTRAL BOARD OF  
DIRECT TAXES,  
DEPARTMENT OF REVENUE,  
MINISTRY OF FINANCE

FOR DEPARTMENTAL USE ONLY



(For Departmental use only)



# **SEARCH AND SEIZURE MANUAL 2025**

**Central Board of Direct Taxes,  
Department of Revenue,  
Ministry of Finance**



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## FOREWORD

The Search & Seizure Manual was first published in the year 1985. It was subsequently revised in the year 1989 and 2007 in light of various legislative and technological changes that shaped the working of the Income Tax Department over the years. The manual has served as a useful guiding document for all the officers working in the Directorate of Investigations and Central Charges of the Department.

Since its last revision in 2007, there has been substantial transformation in the working of the Income Tax Department. Various functions of the Department are now technology enabled and driven. At the same time, business processes of tax payers have also become more intricate and technology oriented. During search and seizure operations, the evidences found and gathered by the Department are more digital than physical/traditional in nature. Apart from the financial information, the digital data sometimes also contain personal information, therefore handling of digital evidences requires higher level of sensitivity and skill sets.

Digital Evidence Investigation Manual 2014, deals with the standard procedures required to be followed for handling the digital devices and data. Same is also under up-dation to incorporate technological advancements and changes in various statutes. The provisions of Information Technology Act, 2000, Digital Personal Data Protection Act, 2023, and The Bharatiya Sakshya Adhiniyam, 2023 are also required to be kept in mind while seizing, handling or analysing digital data.

The thrust and direction of the Department during the recent times has been tax collection through non-intrusive means aided by the use of latest tools of technology and availability of data, both from internal as well as external sources. While the adoption of 'PRUDENT'

approach and 'NUDGE' campaign has yielded desired outcomes in terms of additional tax mobilisation, Search and Seizure and Survey actions have helped in unearthing unaccounted income and assets, both in India and abroad.

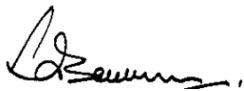
Due to the recent changes in the realm of investigation supported by the availability of data through Domestic Law Enforcement Agencies, FIU-IND, MCA 21 of Ministry of Corporate Affairs, NATGRID of Ministry of Home Affairs and sharing of information by foreign jurisdictions under the treaty framework, Common Reporting Standard (CRS), Foreign Account Tax Compliance Act (FATCA), the existing manual required updation.

While content of the previous manual has been updated in accordance with the recent legislative and technological changes, new developments like enactment of Prohibition of Benami Property Transactions Act, 1988 ('PBPT Act, 1988'), Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ('BMA, 2015'), revamped reward guidelines for the officers and staff, various updated functionalities available in the system as regards search and seizure operations, have also been incorporated in the manual.

This manual is intended to provide broad and overall guidance to the field formation to be adapted further in unforeseen situations. Officers would come across situations which require processes and procedures to be improved/updated or specified in this manual. I would urge the officers to give regular feedback/suggestions on areas that need updation so that the manual naturally remains updated and contemporary.

I hope this manual will serve as a useful reference document for the officers and officials who are engaged in the challenging task of conducting search and seizure operations to detect generation of unaccounted income and assets.

**26.06.2025**  
**New Delhi**

  
**(Ravi Agrawal)**  
**Chairman, CBDT**

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## Acknowledgements

A Committee was constituted vide F. No. 414/125/2017-IT(Inv. I)(Part) dated 11<sup>th</sup> April 2023, with Shri Sanjeev Sharma, the then CCIT (OSD), Delhi, appointed as the Chairman. The mandate of the committee was to review and update the Search and Seizure Manual, 2007. The other members of the committee included Shri Ashok Kumar Tripathi [then Pr. DIT (Inv.), Bhopal], Shri Sibendu Moharana [then Pr. DIT (Inv.), Kolkata], Shri Anand Jha [then Pr. DIT (Inv.), Chandigarh], and Shri Dhruv Purari Singh [then Addl. DIT (Inv.), Lucknow]. The committee submitted its report in the month of September 2023.

Considering the fact that several new Acts such as Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita 2023, Bharatiya Sakshya Adhiniyam, 2023, Digital Personal Data Protection Act, 2023, relevant to the search and seizure operations under the Income-tax Act, 1961, were enacted in Financial Year 2023-24, the draft manual submitted by the Committee, was revisited by the Investigation Division, CBDT. It was further considered apt to seek suggestions and inputs on the draft manual from the field formations to make it practical and up to date. In this regard, invaluable and noteworthy contributions were made by Shri Satish Sharma, then DGIT (Inv.) Pune, Shri V.K. Gupta, then CCIT (TDS), Kolkata, Shri Prasenjit Singh DGIT (Inv.) Delhi, Shri Sunil Kumar Singh, DGIT (Inv.), Ahmedabad, Shri Md. Tarique Kalim, PCIT (Central), Ludhiana, Shri Raj Gopal Sharma, PDIT (Inv.), Hyderabad, Shri Rajesh Kumar Kedia, PDIT (Inv.) - I, Delhi and Shri S.S. Rana, then PCIT (Central)-I, Delhi.

The preparation of this updated manual is the result of extensive teamwork and coordination. Officers posted in the Investigation Division viz. Shri Sandeep Kumar, Smt. Jyoti Shah, Shri Mandeep Pawar, Shri Abhinav Agarwal, Shri Vaibhav Srivastava, Shri Harshit Bansal, Shri Saurabh Goyal, Shri Vedant Kanwar, Shri Mohit Garg, Shri Arun Sehrawat, worked closely with the committee members and other departmental officers to ensure the manual's accuracy, relevance, and practicality.

The guidance and support of Shri Manoj Pandey, PDIT (Inv.)-2, Delhi in finalisation and release of the Manual is highly appreciated.

The updated Search and Seizure Manual is being released nearly 17 years after the publication of the 2007 edition. This task would not have been accomplished without the constant guidance, encouragement and support of Shri Ravi Agrawal Hon'ble Chairman, CBDT, whose leadership has made this endeavour possible.

New Delhi  
26.06.2025

Shashi Bhushan Shukla  
Commissioner (Inv.), CBDT



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### List of Abbreviations

|            |                                                                                     |
|------------|-------------------------------------------------------------------------------------|
| ACIT       | Assistant Commissioner of Income tax                                                |
| Addl.      | Additional                                                                          |
| ADIT       | Assistant Director of Income tax                                                    |
| AEOI       | Automatic Exchange of Information                                                   |
| AIS        | Assessee Information System                                                         |
| AO         | Assessing Officer                                                                   |
| BMA, 2015  | Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 |
| BNS, 2023  | The Bharatiya Nyaya Sanhita, 2023                                                   |
| BNSS, 2023 | The Bharatiya Nagarik Suraksha Sanhita, 2023                                        |
| BSA, 2023  | The Bharatiya Sakshya Adhinyam, 2023                                                |
| CBDT       | Central Board of Direct Taxes                                                       |
| CBDT/Board | The Central Board of Direct Taxes                                                   |
| CBI        | Central Bureau of Investigation                                                     |
| CBIC       | Central Board of Indirect Taxes & Customs                                           |
| CCIT       | Chief Commissioner of Income tax                                                    |
| CCTV       | Closed-Circuit Television                                                           |
| CDM        | Corporate Data Management                                                           |
| CEIB       | Central Economic Intelligence Bureau                                                |
| CFL        | Cyber Forensics Lab                                                                 |
| CISF       | Central Industrial Security Force                                                   |
| CIT        | Commissioner of Income tax                                                          |
| CIT(A)     | Commissioner of Income tax (Appeals)                                                |
| CPC        | Code of Civil Procedure, 1908                                                       |
| CrPC       | Code of Criminal Procedure, 1973                                                    |
| CRPF       | Central Reserve Police Force                                                        |
| CTR        | Cash Transaction Reports                                                            |
| DCIT       | Deputy Commissioner of Income tax                                                   |
| DDIT       | Deputy Director of Income tax                                                       |
| DGIT       | Director General of Income tax                                                      |
| DGIT       | Director General of Income Tax (Investigation)                                      |
| DIAL       | Digital Intelligence and Analytics Labs                                             |
| DIT        | Director of Income Tax                                                              |
| DRI        | Directorate of Revenue Intelligence                                                 |
| ED         | Directorate of Enforcement                                                          |
| EOI        | Exchange of Information                                                             |
| FDR        | Fixed Deposit Receipt                                                               |
| FEMA       | Foreign Exchange and Management Act                                                 |
| FIR        | First Information Report                                                            |
| FIU        | Financial Intelligence Unit                                                         |

|                             |                                                                  |
|-----------------------------|------------------------------------------------------------------|
| IND                         | India                                                            |
| INV                         | Investigation                                                    |
| IO                          | Investigating Officer                                            |
| IPC                         | Indian Penal Code, 1860                                          |
| ITAT                        | Income Tax Appellate Tribunal                                    |
| ITBA                        | Income Tax Business Application                                  |
| ITD                         | Income Tax Departmental Applications                             |
| ITO                         | Income tax Officer                                               |
| JCIT                        | Joint Commissioner of Income tax                                 |
| JDIT                        | Joint Director of Income tax                                     |
| LEA                         | Law Enforcement Agencies                                         |
| LOC                         | Look Out Circular                                                |
| LR                          | Letter Rogatory                                                  |
| NATGRID                     | National Intelligence Grid                                       |
| MCA                         | Ministry of Corporate Affairs                                    |
| MLA                         | Mutual Legal Assistance                                          |
| NCB                         | Narcotics Control Bureau                                         |
| OA                          | Operational Analysis                                             |
| PAN                         | Permanent Account Number                                         |
| PBPT                        | Prohibition of Benami Property Transactions Act, 1988 (PBPT Act) |
| PDA                         | Personal Deposit Account                                         |
| PDIT(Inv.)/<br>Pr.DIT(Inv.) | Principal Director of Income Tax (Investigation)                 |
| PMLA                        | Prevention of Money Laundering Act                               |
| RBI                         | Reserve Bank of India                                            |
| REIC                        | Regional Economic Intelligence Committee                         |
| SEOI                        | Spontaneous Exchange of Information                              |
| SFIO                        | Serious Fraud Investigation Office                               |
| SFT                         | Statement of Financial Transactions                              |
| SEBI                        | Securities Exchange Board of India                               |
| SSF                         | Secret Service Fund                                              |
| STR                         | Suspicious Transaction Report                                    |
| TAN                         | Tax Deduction and Collection Account Number                      |
| TCS                         | Tax Collected at Source                                          |
| TDS                         | Tax Deducted at Source                                           |
| TEP                         | Tax Evasion Petition                                             |
| The Act                     | The Income Tax Act, 1961                                         |
| The Rules                   | The Income Tax Rules, 1962                                       |
| ZAO                         | Zonal Accounts Officer                                           |

## CHAPTER - 1

### PREPARATION FOR SEARCH AND SEIZURE ACTION

#### 1.1. Overview of the legal provisions

**1.1.1.** Section 132 of the Income-tax Act, 1961 ['the Act'] empowers certain Income-tax authority to authorise other specified Income-tax authority (Authorised Officers) to carry out search and seizure actions in the circumstances mentioned therein. The power to requisition books of account, other documents and assets taken into custody by any officer or authority under any other law for the time being in force is also available to certain Income-tax authority under section 132A of the Act. Section 132B of the Act governs the application of assets seized/requisitioned under the above sections.

**1.1.2.** The provisions mentioned above, along with Rules 112, 112A, 112B, 112C and 112D, 13/13A of the Income-tax Rules, 1962 ['the Rules'] lay down the legal framework and procedural guidelines for authorising and conducting searches, making requisitions, effecting seizures, performing certain other search-related functions, retaining seized/requisitioned books of account and other documents, and dealing with the seized/ requisitioned/retained assets.

**1.1.3.** The primary purpose of search and seizure operation is to gather evidence in electronic/physical form, apart from seizing assets that are manifestation of undisclosed income. Besides the Income-tax Act, 1961, the evidence gathered could entail action under various other statutes also, like the Prohibition of Benami Property Transactions Act, 1988 ('PBPT Act, 1988') and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ('BMA, 2015').

#### 1.2. Powers assigned to the Investigation Directorates

**1.2.1.** In the exercise of its power under Section 120 of the Act, CBDT has issued various notifications assigning powers to be exercised by various Income-tax authority. For the Investigation Directorates, [CBDT's Notification No. 69/2014](#) assigns the following powers/functions to DGIT(Inv.)/Pr.DIT(Inv.):

|                                                                                                                                                                                             |                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| A. Part– C (Powers) of Chapter XIII and corresponding provisions of Chapter XXI (Penalties imposable), Chapter XXII (Offences and Prosecutions) and other provisions incidental thereto for | Territorial areas of the whole of India |
| B. Other than the provisions mentioned above (in A)                                                                                                                                         | Only within the defined jurisdiction    |

Consequently, DGIT (Inv.)/ Pr.DIT(Inv.) have issued further orders regarding the territorial jurisdictions of the authorities subordinate to them.

**1.2.2.** A search can be authorised in a case if the Income-tax authority competent to do so, has, in consequence of information in his possession, reason to believe that one or more of the conditions mentioned in clauses (a), (b) or (c) of sub-section (1) of section 132 of the Act are satisfied.

**1.2.3.** The authorities competent to authorise a search and seizure action have been mentioned in Section 132 of the Act. This section also enumerates the Income-tax authority who can be authorised to take such actions. The Authorised Officer does not need to be an officer working under the direct control or supervision of the authority authorising the search. Every authorisation for carrying out search and seizure is required to be issued in writing in the prescribed form under the signature and official seal of the officer issuing the same. Such an authorization should also bear his/her seal [See sub-rule (2) and (2A) of Rule 112 for different types of applicable forms].

**1.2.4.** The powers conferred on the Income-tax authority by section 132 of the Act are not unfettered and do not confer any arbitrary authority upon them. The power under section 132 of the Act must be exercised strictly following the law and only for the purposes for which the law authorises it and in accordance with the extant guidelines/instructions issued by the Board. However, it is not necessary that certain proceedings must be pending before action under section 132 of the Act is taken.

### **1.3. Validity of the legal provisions relating to the search and seizure**

The legal framework outlined above has been repeatedly tested in courts, including challenges to the constitutional validity of the search provisions. These proceedings have resulted in a series of judicial pronouncements which, while upholding the constitutional validity of Section 132 of the Act, have also established important guiding principles that must be considered by an officer while initiating or processing a case for action under the Act. Some of the fundamental principles are detailed below:

**1.3.1. Constitutional validity of the legal provisions:** Some of the remarks and parts of the leading and landmark judgments are reproduced below:

- a. Provisions of Sec.132 are not violative of articles 14 and 19 of the Constitution since there is a valid classification of persons against whom proceedings under section 132 of the Act may be taken. (**Balwant Singh Vs RD Shah, Director of Inspection (1969) 71 ITR 550 (Delhi)**).
- b. Fiscal authorities should have sufficient powers to prevent tax evasion in the interest of the economic life of the community. (**Pooranmal Vs Director of Inspection (1974) 93 ITR 505(SC)**).
- c. Provisions of section 132 of the Act and Rule 112 of the Income-tax Rules, 1962 have adequate safeguards, and the temporary restrictions imposed by these measures are reasonable. (**Pooranmal Vs Director of Inspection (1974) 93 ITR 505(SC)**).

- d. Provisions of section 132 of the Act and Rule 112 of the Income-tax Rules, 1962 cannot be regarded as violative of Articles 19(1)(f) and (g) of the Constitution. (**Pooranmal Vs Director of Inspection (1974) 93 ITR 505(SC)**).
- e. The basis of the exercise of power under section 132 of the Act is not mere suspicion but reasonable belief on the basis of information in possession. (**C.Venkatareddy Vs ITO (1967) 66 ITR 112(Mys)**).
- f. The provisions relating to search and seizure are not violative of Article 19(1)(g) of the Constitution merely because they permit searches without affording a prior opportunity of hearing to the person concerned. In fact, granting such an opportunity before exercising the power under section 132 would defeat the very purpose of the provision, rendering the search and seizure mechanism ineffective. (**Chemitex, Goa and Another vs Union of India and Others on 18 January, 1982 1983(14) ELT2130(BOM)**).

**1.3.2. Sufficiency of satisfaction:** A few court judgments on the interpretation of 'reasons to believe' as contained in Section 132 for the issue of a warrant of authorisation are reproduced below:

- a. The Court cannot act as an appellate authority over the decision of the Director of Inspection, which is based on his reasonable satisfaction regarding the existence of 'reasons to believe'. The formation of such belief is a matter within the domain of the designated authority, and not subject to substitution by the Court's own opinion. [**Balwant Singh Vs RD Shah, Director of Inspection (1969) 71 ITR 550 (Delhi)**].
- b. The Director of Inspection may form an honest and reasonable belief for initiating search and seizure action based on information gathered during investigation and details furnished before the assessing authorities. [**Pooranmal Vs Director of Inspection (1974) 93 ITR 505(SC)**].
- c. Reasons recorded before issuing a warrant of authorisation need not be communicated to the person against whom a warrant is issued. [**DGIT(Pune) Vs M/s. Spacewood Furnishers Pvt Ltd 374 ITR 595 (SC)**].
- d. While exercising writ jurisdiction, the High Court cannot go into the sufficiency of reasons and acceptability of information on which satisfaction was reached by authorities to issue a warrant of authorisation under section 132. [**DGIT(Pune) Vs M/s. Spacewood Furnishers Pvt Ltd 374 ITR 595 (SC)**].
- e. The reasons for issuing the search warrant need not be mentioned in the search warrant itself. But if a High Court requires, the reasons recorded is required to be produced to prove that the commissioner formed the requisite belief based on relevant information. [**H.L.Sibal Vs CIT(1975)101 ITR 112 (P & H)**].

- f. The sufficiency or inadequacy of the 'reasons to believe' recorded cannot be examined while assessing the validity of an authorisation for search and seizure. Only the existence of such belief is justiciable, and even then, only within the limited framework of the Wednesbury principle of reasonableness. This test of reasonableness does not empower the Court to act as an appellate authority over the belief formed by the authorising officer. [**Pr.DIT(Inv) vs Laljibhai Kanjibhai Mandalia ,2022 (446 ITR 18 (SC))**].
- g. If a search is otherwise justified, the number of officers comprising the search party does not affect the validity of the search. The sheer size of the search team cannot be a ground for judicial interference. In cases involving large premises or complex layouts, deployment of a sizeable team is often necessary to ensure effective execution of the search and seizure action. (**Mamchand & Co. v. CIT [1968] 69 ITR 631 (Cal.)**, **Subir Roy v. S.K. Chattopadhyay [1986] 29 Taxman 13 (Cal.)**).
- h. Where the complaint or allegation of tax evasion, made by an informant, is independently verified by the department through secret enquiry, it cannot be said that there was no 'reason to believe' for initiating a search under Section 132 of the Act. (**Jai Bhagwan Om Parkash vs Director Of Inspection And Others. on 30 March, 1992 (1992)105CTR(P&H)36**).
- i. The Hon'ble Supreme Court in **N.K. Jewellers v. CIT [2017] 398 ITR 116 (SC)** has held that, following the amendment made to Section 132A by the Finance Act, 2017, the 'reason to believe' or 'reason to suspect' recorded by the Revenue authorities under Section 132 or Section 132A is not required to be disclosed to any person, authority, or even the Appellate Tribunal.
- k. The Hon'ble Supreme Court in **Director of Income Tax (Investigation) v. Laljibhai Kanjibhai Mandalia, 2022 SCC OnLine SC 872, decided on 13-07-2022** held that the formation of opinion and the reasons to believe recorded is not a judicial or quasi-judicial function but administrative in character. The information must be in possession of the authorized official based on the material and the formation of opinion must be honest and bona fide.

#### **1.4. Preparation for carrying out a search and seizure action**

Under the existing arrangement, searches are ordinarily authorised by the Pr. DIT (Inv.) with the prior administrative approval of the DGIT(Inv.). [**As per Board's [Instruction No. 7 of 2003 F. No. 286/77/ 2003-IT \(Inv. II\) dated 30.07.2003](#) and [F. No. 289/10/2001-IT \(Inv. II\) dated 7/03/2001](#)**]. Consequentially, an authorised Addl./Joint DIT (Inv.) can also authorise a search to ensure expeditious and effective action during an ongoing search as per Section 132(1)(B) of the Act. Identification and preparation of search cases involves the following main steps:

- (1) Gathering of information from various sources;

- (2) Processing of information;
- (3) Preparation of satisfaction note and warrant of authorisation;
- (4) Preparation for the conduct of a search.

#### **1.4.1. Gathering of information**

The Income-tax authority receive information about a person's economic & financial activities from two broad categories, viz; internal and external sources.

##### **1.4.1.1. Internal sources of information**

The Department has a vast database on the persons who are assessed to tax and also of non-filers, even though liable to file tax returns. Some examples of internal sources of information are as under:

###### **1.4.1.1.1. Taxpayers' data available on Insight/ITBA/e-filing/TRACES Portals and other data maintained by the Department**

With the progress made by the Department in computerisation, e-filing of returns, robust reporting mechanisms in place in the form of Statement of Financial Transactions (SFTs), important information regarding filers/non-filers can be obtained through the Insight/ITBA/e-filing/TRACES Portals. Such information can be helpful in identifying potential cases for search and developing an already identified case. A non-exhaustive list of such data is as follows:

- i. Filing records of the assessee's containing documents such as returns of income and other forms, including tax audit reports (as applicable);
- ii. Information/records regarding scrutiny assessments;
- iii. Assessee's claims and contentions in the course of the assessment/apellate proceedings;
- iv. Various points relating to or arising from the assessment/post-assessment proceedings, etc.
- v. Uploads on CRIU/VRU – Functionality on Insight Portal
- vi. Records of TDS/TCS
- vii. Record of Form No. 60 (Form of declaration to be filed by a person who does not have a Permanent Account Number and who enters into any transaction specified in Rule 114B of Rules) and Form No. 61 (Form of a declaration by a person having only agricultural income and who enters into any transaction specified in Rule 114B)

- viii. Various types of information based on PAN/TAN are available on the Insight portal, e-filing Portal, TRACES Portal.

The officers working in the investigation wing are advised to keep themselves updated on various types of portals and on the nature and type of information/data available thereon, which may be useful for carrying out investigation. For example, Insight portal has the functionality of i-Search, which includes the identification of a taxpayer based on the parameters such as name, address, mobile no., account no., property, e-mail, etc. Further, it also allows to identify the person related to a particular person based on relationships, directorship, partnership, common mobile, common address, transactional association, asset association, business association, representative relationship, etc., which helps in identification of all the entities/persons associated with any group(s)/person(s).

Insight data also include various third-party information, which are provided by various financial and govt. organizations such as Sub-registrar, Banks, Mutual Fund Houses, NBFCs, GST Department, etc. This information includes details of cash deposits /withdrawals, purchase of security/mutual funds, purchase of immovable properties, vehicles, sub-contractor payment and receipt details, etc. which helps in identifying the exact financial position of any person(s).

#### **1.4.1.1.2. Tax Evasion Petitions (TEPs)**

Complaints, information, representations or correspondence of any nature received from any source are considered as Tax Evasion Petitions (TEP), if they contain allegations of violations of Direct Tax Laws. As per CBDT's SOP for handling TEPs, issued vide [291/21/2013-Dir \(Inv. IV\)/ 1193 dated 23.09.2016](#) and letter [dated 03.02.2021 vide F. No. 290/21/2013-Dir. \(Inv. IV\)/2132](#), only TEPs which contain specific, verifiable and actionable intelligence are to be taken up for investigation, while other TEPs with vague or general allegations are not taken up for investigation. The information about TEPs is uploaded on the ITBA. Thus, apart from TEPs being one of the sources of information for identifying and preparing cases for search and seizure actions, it may be useful to check for any other pending TEPs regarding a case. Since an Investigating Officer ('IO') may not have access to information on TEPs lying with other officers, coordination in this regard may be done at the level of Unit Heads/Pr. DIT(Inv.)

#### **1.4.1.1.3. Records of past searches, surveys, etc. conducted by Income-tax authority**

The records of searches or surveys conducted by the Income Tax Department in the past may provide vital information leads for the identification of cases for search. Some such situations are:

- i. Search conducted by the Income Tax Department in the case of a person previously may lead to discovery of such information about his premises, bank lockers, etc., as would necessitate and justify a search of those places or premises.

- ii. Search conducted by the Income Tax Department in a case may lead to such information against another person as is relevant to the conditions referred to in one or more of the clauses (a), (b) or (c) of the sub-section (1) of section 132 of the Act.
- iii. A survey under section 133A conducted in the case of a person may lead to such information against him or another person as is relevant to the conditions referred to in one or more of the clauses (a), (b) or (c) of the sub-section (1) of section 132 of the Act.

#### **1.4.1.2. External sources of information**

Some examples of external sources of information are:

##### **1.4.1.2.1. Informants**

Informants can be a good source of information about tax evasion, and such information can be of critical value while identifying and preparing cases of search actions. The details regarding the procedure to be followed for dealing with the informants have been laid down in the Income Tax Informants Rewards Scheme, issued by the Board vide letter [F. No. 292/62/2012-IT \(Inv. III\) /26 dated 23.04.2018](#). The officers should follow the procedure laid down therein while dealing with the informants and the information provided by them. A preliminary examination of the informant should be done at the beginning, and he must sign a declaration that furnishing of information does not ensure a search action in the case, and it does not entitle him to the reward and that any appeal in this regard would not be admissible. This will help avoid future complaints.

##### **1.4.1.2.2. Government agencies and bodies, especially those dealing with economic offences and violations as well as economic security of the country**

In financial crime investigations, various aspects of tax evasion, money laundering, unaccounted foreign currency, corruption, bogus/fake Input Tax credit (ITC) under GST, bank loan frauds, etc. may be unearthed. These may constitute a violation of various statutes such as the Income-tax Act, 1961; Prevention of Money Laundering Act, 2002 (PMLA); Foreign Exchange Management Act, 1999 (FEMA); Prohibition of Benami Property Transactions Act, 1988; Prevention of Corruption Act, 1988; Companies Act, 2013; The Central Goods and Services Tax Act, 2017; The Customs Act, 1962 etc. The information gathered through enforcement actions by one Law Enforcement Agency (LEA) may be shared with other relevant LEAs for timely action(s). The exchange of information among **LEAs (CBI, RBI, SEBI, CBDT, CBIC/DRI, FIU-IND, Delhi Police, ED and SFIO)**, is handled through the **Nodal Officer mechanism [Commissioner (Inv.), CBDT is the Nodal Officer]**. The information sharing mechanisms are dealt separately in Chapter 9].

#### **1.4.1.2.3. References made to or information from Financial Intelligence Unit-India (FIU-IND) of Department of Revenue, Ministry of Finance**

India has put in place a statutory framework under which information received by FIU-IND from its designated Reporting Entities (REs) is shared with the relevant LEAs. CBDT has been receiving financial intelligence reports like Suspicious Transaction Reports (STRs), Cash Transaction Reports (CTRs), Operational Analysis (OA), etc. on a regular basis, and such information constitutes one of the vital sources of financial information for the tax administration. It is being utilised along with other financial data available to tax authorities for the performance of their functions.

In addition to spontaneous information received from FIU-IND, CBDT and its field formations may make case-specific requests to FIU-IND to provide additional information.

For management of STRs and exchange of information with FIU-IND, CBDT has laid down internal guidelines for its field formations vide [OM dated 08.06.2022 in F. No. 290/27/2013-Dir \(Inv. IV\)/485](#). **[Director (Inv.-IV), CBDT has been designated as Nodal Officer on behalf of CBDT in the matter of exchange of information between CBDT and FIU-IND].**

The mode and manner of accessing the financial intelligence depends on the type of information being shared by FIU-IND. In respect of STRs, bulk encrypted data is received through a secure portal of the Department (Insight Portal). The data is then analysed based on risk parameters and disseminated to field formations for appropriate actions. The designated field authorities can thereafter access the data after logging in their credentials in the Portal.

FIU has launched Project **FINnet 2.0** which envisions to streamline and redefine the process of collection, processing, and dissemination of data for the purpose of effectively generating meaningful intelligence to curb money laundering activities and enforce the provision of PMLA in India. FINnet 2.0 is implemented as a set of three (3) systems to ensure that the data ingested and processed by the three is isolated and immune to security threats, as much as possible, and all data is secure. User Manual for FINnet2.0 has been made available to the directorates of investigation in the Department.

#### **1.4.1.2.4. Information received from CEIB and DRI**

A. The types of information received by CBDT from CEIB include:

- Show Cause Notices and Orders in Original of the DRI;
- Orders of SEBI, with a request to check the taxability of the profits/gains and disallowance of the penalties imposed by the SEBI;
- Look Out Circulars issued in Bank Fraud Cases;
- FIRs filed by the CBI.

B. Information is also received from DRI, including outright smuggling cases and commercial fraud cases.

- Outright smuggling cases include cases relating to gold, foreign currency, FICN, NDPS, Environment and others.
- Commercial fraud cases include import cases, under-valuation, mis-declaration, misuse of end-use, export fraud cases and others.

The above-referred information as received by CBDT, is forwarded to the concerned DGsIT(Inv.) for necessary action.

#### **1.4.1.2.5. Information gathered from public domain**

Valuable information can be obtained from newspapers, magazines, journals, publications, studies and other print and audio-visual media, the Internet, especially websites of trade and industry associations and bodies, regulatory authorities and websites containing financial information on various types of businesses, professions etc. **Commonly used public sources of information (not exhaustive) include the following:**

- a. Various regulatory bodies and LEAs such as SEBI, Competition Commission of India, CBI, RBI, IREDA, MCA and Directorate of Enforcement (ED) publish press releases, adjudication orders, etc. on their websites and are publicly accessible.
- b. Various search portals are publicly accessible, such as DORIS, VAHAN, IP SEARCH, FSSAI, ApnaKhata, E-Panjiyan, Sarathi, Bhu-Naksha, Bhulekh, etc.
- c. Valuable information is available on MCA Portal with respect to Monthly Information Bulletin, list of companies incorporated every month, list of struck off companies, Master data of companies and LLPs containing details about companies and their directors and LLPs and their partners. View Public Document Services on MCA provides information on various compliance related forms which may in turn provide information on financial information of companies and particulars of directors.
- d. Judgments and orders of the various appellate bodies and the constitutional courts, i.e. Hon'ble High Courts and the Hon'ble Supreme Court, are available on their websites as well as portals like JUDIS, Indiankanoon.com.
- e. On GSTN Portal, PAN can lead to the discovery of the GSTIN and the status of return filing under GSTIN.
- f. Websites of stock exchanges such as NSE and BSE provide various publicly disclosed data relating to the listed companies on the exchanges along with declarations filed by the companies, etc.
- g. Various private databases such as Zaubacorp (for MCA Related data), Zaubaba (for Export-Import data), Tofler (for Companies Network), etc, and Money Control (Share

markets), ICIJ.org, datocapital.com (companies incorporated in tax havens) provide free and paid access on the domain-specific economic data.

h. Newspapers, mainly published in the local language, are an excellent source of information about the financial activities or activities of prominent businesses and persons of interest in the area.

i. Credit score of taxpayers from [www.cibil.com](http://www.cibil.com).

While using the private databases, care should be taken to not give away the information or identity as these databases may be maintaining and storing logs of the searches/queries made. For example, direct access of platforms like the LinkedIn or apps like the Truecaller using regular Id may give away the identity of the Investigating officer/official.

#### **1.4.1.2.6. Information received from foreign jurisdictions**

Information is received from foreign jurisdictions under the Automatic and Spontaneous Exchange of Information mechanism provided in the tax treaties, or Tax Information Exchange Agreements, or Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MCAA), etc. Information requested under different investigation(s) from a foreign jurisdiction under a Double Taxation Avoidance Agreement (DTAA), Tax Information exchange agreement (TIEA), etc. may also be useful.

Information is also received automatically under the Common Reporting Standard (CRS) mechanism from various Jurisdictions and the Foreign Account Tax Compliance Act (FATCA) mechanism from the USA. This information is available to the investigation wing officers through the Insight Portal. **[Refer to the Information Access Request Management Quick Reference Guide issued by the Systems Directorate]**

Further, information can also be requested through formal mechanisms comprising Mutual Legal Assistance or Letter Rogatory and also through informal channels like Interpol Requests **[Refer to Paragraph 6.19 and 6.21 and OM [dated 8<sup>th</sup> July 2024 vide F. No. 414/100/2024-IT \(Inv. D\)\(Pt. D\)](#)]**

#### **Foreign Intelligence**

In the case of foreign intelligence received from foreign jurisdictions, the information is received in CBDT only by the designated officer. After determining the jurisdiction of the entity mentioned in the intelligence, the data is forwarded to the jurisdictional field unit as 'Secret' communication. Guidelines regarding the handling of foreign intelligence have been provided vide **[F. No. 290/17/2022-IT-Dir \(Inv. IV\)/348 dated 18/05/2022](#)**.

#### **1.4.1.2.7. Surveillance/field enquires**

Surveillance means keeping a secret and close watch over places, persons, or objects. It is a form of discreet observation of the activities and places of the target group. Before finally selecting a case for search, the target group should, as far as possible, be subjected to surveillance for a reasonable period. The target of surveillance should not only be the person against whom the search is being considered but also his business associates, trusted employees, etc. The purpose of surveillance is to gather further information about the economic activities, modus operandi of tax violations, books of account, documents, computer systems, money, other valuables, premises, secret chambers, bank lockers, godown, etc. Some examples where surveillance may lead to the acquisition of vital information about a person's activities are (a) possible detection of movements and holding of cash; (b) identification of *benami* properties; (c) ascertaining the movements and places of availability of different persons of the target group; and (d) identification of the vehicles, (e) secret offices or residence(s) not reported in the SFT/AIS information, (f) back offices where parallel books-of-accounts might be maintained, etc.

Surveillance could be kept either through a static watch or a mobile watch on foot or a vehicle, depending upon the object of surveillance. The static type of surveillance will be helpful in collecting information relating to the target premises and movement of persons in and around therein like the access control systems/close circuit cameras/intercom systems installed in the premises, number of guards and watchdogs, persons who frequent the premises, the usual timings of movements of the persons targeted for observation, etc. A mobile watch on foot may be helpful in locating places frequented by the target person on foot, while the mobile watch through vehicles is helpful in detecting the movements of vehicles, places frequented by the target person by vehicles. Photography/videography, voice recording, etc. may also be used in suitable cases. Care should be taken to rotate the surveilling officials/vehicles used so as to not give away their identity or raise suspicion in minds of the surveilled persons. The surveilling official/officer should be mindful of CCTV surveillance wherein he/she may be monitored by the target person(s).

It is pertinent to mention here that while information collected from one single source may not always be sufficient, it can nevertheless provide useful inputs, which, combined with information gathered from other sources, provide a holistic view for properly identifying potential cases for search. It is also advisable that instead of confining himself to only one source of information, the investigating authority may gather information from as many sources as possible.

**1.4.1.2.8.** The Field formations of CBDT have been recently given access to get access of following portals:

##### **a. NATGRID**

National Intelligence Grid (NATGRID) provides state-of-the-art and innovative information technology platform for accessing information from the data collection organizations to Law

Enforcement Agencies. The NATGRID has been mandated to assist its User Agencies (UAs) in ensuring National, Internal and economic security. Income Tax Department is User Agency (UA) as well as Providing Organization (PO) for NATGRID platform. In order to fulfil its mandate, NATGRID has developed applications for facilitating data transfer from Providing Organizations (PO) to the User Agencies (UA).

The Providing Organization (PO) is an organization like the Banks, Telecom Operators, Airlines, Government Departments/Agencies like CBDT, CBIC, Railways, FIU-IND etc. The Authorised Users of the User Agency may make a request to the Providing Organisation (PO) through the portals of NATGRID. Some of the use cases where NATGRID can provide information during the course of investigation are provided below:

- ◆ Gathering details of the persons using only Mobile Number,
- ◆ Identifying Addresses outside ITD Database,
- ◆ Obtaining Mobile Numbers issued to Person,
- ◆ Vehicles Purchased by Target Person,
- ◆ Travel details pertaining to immigration,
- ◆ Identifying bank account details using PAN,
- ◆ Bank Account Statement using account number and bank branch,
- ◆ Retrieving railway ticket booking history using mobile number,
- ◆ Retrieving vehicle travel details based on FASTAG and toll data,
- ◆ Export data based on HSN code and IEC code.

NATGRID can be accessed either through NIC network or VPN based access. In view of the utility of NATGRID for investigation purposes, efforts have been taken to increase the access of NATGRID for the officers of Directorates of Investigation of CBDT across India.

#### **b. Corporate Data Management (CDM) Portal of MCA**

CDM was launched as a Central Sector Scheme of MCA to provide forward linkage to MCA21 Registry. It uses data points from MCA data sources/disclosures in structured and machine-readable format for seamless analysis and provides various information such as the general details of a company, present and past directors, other Directorship of past/present directors, auditors of the company, charge created, annual filings, etc. CDM acts as an alternate mechanism to access corporate data apart from MCA-21 portal with value added analysis.

### **c. Digital Intelligence Platform (DIP) of DoT**

The Digital Intelligence Unit ('DIU') of the DoT has launched Digital Intelligence Platform ('DIP') which serves as an integrated platform for the Department of Telecommunications DoT, Telecom Service Providers, Law Enforcement Agencies (LEAs), Financial Institutions (FIs), Over the Top (OTT) and other stakeholders for information exchange and coordination for curbing cyber-crime, and financial frauds committed through misuse of telecom resources. It acts as the backend platform for all citizen centric services being offered through Sanchar Saathi portal like Telecom Analytics for Fraud Management and Consumer Protection (TAF COP), Know Your ISP, International call Reporting, feedback handling etc.

DIP is a secure portal which can be accessed only through by authorized officials having login ids and through VPN connectivity. DIP allows the LEA users to access the following modules:

- Subscriber Details (Artificial Intelligence and Facial Recognition powered Solution for Telecom SIM Subscriber Verification (ASTR) Analysis which contains the details of all numbers which are being flagged by various digital intelligence sources like ASTR, TAF COP, etc.
- Mobile Number Revocation List (MNRL) data which contains details of all the mobile numbers along with reasons of their disconnections on near real time basis.

### **d. DDAT (Dark-web Data Access Tool) Dark Web tools developed by C-DAC, Hyderabad**

Dark Web refers to small subset of deep-web (part of the web not indexed by search engines) where websites are accessible through specialised software like TOR browser. Content that exists on these networks use the Internet but require specific software or authorization to access. There is a possibility of exploitation of Dark web by tax evaders for entering into transactions and communication. Therefore, initiatives were taken to provide access of Dark Web using credible tools/platform to the Investigating Officers. One of such tools is Dark-web Data Access Tool of CDAC, Hyderabad. User credentials have been created for Directorates of Investigation to access this tool. This tool may provide intelligence and information which is not available through conventional sources and can be used for investigation.

## **1.5. Processing a Case for a Search**

**1.5.1.** The Investigating Officer (IO) should gather the maximum possible relevant information on the case being investigated from internal and external sources and analyse the same, including its correlation with financial statements and the Income Tax Returns (ITRs), if filed, related to the case.

**1.5.2.** Information about third parties closely associated with the target person should also be gathered and analysed. Efforts should be made to identify the key employees and associates of the target persons involved in generating and applying the undeclared/unaccounted income. Gathering of intelligence/information by the IO may be done in a manner that ensures secrecy. As far as possible, open enquiries for cases under consideration for a search action should be

avoided, as it may alert the target person, and the effect of such an alert remains for a long time. The Pr.DIT(Inv.) concerned should be kept informed about the status of pre search development by the IO/Addl.DIT(Inv.) concerned.

**1.5.3. Logistics arrangements:** To ensure a smooth and efficient search operation, the following logistical arrangements should be made in advance:

- **Transportation:** Reliable vehicles suitable for transporting the search team and any seized materials must be secured considering the number of personnel, the potential volume of seized items, and the distance to the search location. If necessary, spare vehicles and drivers must be arranged.
- **Security:** If the search location poses potential security risks, arrangement for adequate security personnel to accompany the search team should be made.
- **Accommodation:** As per the need foreseen in a particular case, suitable accommodations may be arranged for the search teams.
- **Equipment:** All necessary equipment for the search must be prepared and packed, including:
  - **Legal documents:** Search warrants, summons, 132(3) proforma
  - **Recording devices:** Contact of Videography experts which may be needed
  - **IT equipment:** Laptops, external hard drives, data extraction tools, printers, internet dongles
  - **Other tools:** Looking at case specific needs, Flashlights, magnifying glasses, metal detectors, ladders, etc. may be arranged.
- **Communication:** A clear communication plan may be established for the search team, including designated contact persons in the control room, their mobile phone numbers. Reliable mobile network coverage at the search location may be ensured.
- **Refreshments:** Sufficient water and snacks for the search team, especially if the operation is expected to be lengthy may be packed, considering dietary restrictions and preferences.
- **Contingency Plan:** A contingency plan to address potential unforeseen circumstances may be developed, such as:
  - Resistance or non-cooperation from the individuals being searched
  - The discovery of unexpected items or information
  - Logistical challenges (e.g. vehicle breakdown, equipment failure)

**1.5.4.** The IO should try to collect the maximum possible information, including the following:

- i. Correct and complete postal address of the premises
- ii. Location and GPS coordinates of the premises
- iii. Identifiable prominent landmarks
- iv. Route map giving the geographical location of the premises to be searched
- v. Distance from the assembly point
- vi. Approximate time needed for moving from the assembly point to the premises
- vii. Possible status of traffic with reference to the strike time
- viii. Kind of locality and neighbourhood to decide about the arrangements (including the requirement of security personnel for the search teams)
- ix. Distance of the premises from the nearest police station
- x. Size of the premises for deciding the manpower requirement
- xi. Out-houses, servant quarters, garages, cellars, secret chambers, guard dogs, access control systems, manual security, closed circuit cameras, etc
- xii. Possible entries and exits to the premises
- xiii. Office/ factory hours and weekly holidays in respect of business premises
- xiv. Time at which the occupants are generally available in the premises

## **1.6. Satisfaction Note**

**1.6.1.** A satisfaction note is a detailed written record setting out the information in possession of the authority competent to authorise a search, wherein consequence of such information, the said authority has reason to believe that one or more of the conditions laid down in clauses (a), (b) or (c) of section 132(1) of the Income-tax Act, 1961 are fulfilled.

**1.6.2.** The IO, after carrying out due reconnaissance, should include a list of those premises in the satisfaction note wherein it is suspected that evidence of tax evasion, books of account, other documents, money, bullion, jewellery, or other valuable article or thing are kept. The note should also bring out the details of the key associates/employees who are suspected to be in possession of information/documents or valuables (cash, bullion, jewellery, etc.) of the tax evaders. It should also contain the broad contours of the modus-operandi adopted by the group regarding tax evasion and investments in undisclosed assets. As an additional ground which

indicates tax evasion or suppression of profits, the industry profile and key financial ratios for a comparative analysis with the assessee's profile and financial ratio, may also be discussed.

**1.6.3.** The Pr.DIT (Inv.) should carefully examine the note/information available with him. If need be, he may direct the IO and the unit head concerned, to gather more information, evidence, material, etc., and to resubmit their note with more such information, evidences, etc. Pr.DIT (Inv.) should issue the warrant **only if** he is satisfied that the conditions for authorising search under section 132 of the Act are fulfilled. Pr.DIT(Inv.) should record his satisfaction in the form of a self-contained note bringing out the nexus between the information on record and his belief about the existence of one or more of the conditions laid down in clauses (a), (b) or (c) of section 132(1) of the Act.

**1.6.4.** The Pr.DIT(Inv.) should thereafter put up the matter before the DGIT (Investigation) and seek his administrative approval. The DGIT (Investigation) may discuss logistical preparedness, the availability of manpower, proper security and protection of search parties with the Pr. DIT (Inv.) at the time of approval.

**1.6.5.** The Pr.DIT (Inv.) should issue warrant(s) of authorisation for search under section 132 of the Act only after the DGIT (Investigation) has accorded administrative approval for the proposed action.

**1.6.6.** Explanation to sub-section 1 of Section 132 of the Act provides that the reason to believe as recorded by the Income-tax authority under Section 132(1) of the Act shall not be disclosed to any person or any authority or the appellate tribunal.

**1.6.7.** While preparing the warrant of authorisation for signatures of the Pr.DIT (Inv.), among other things, the following position should be taken into account:

- i. The following Income-tax authority can be authorised to take action as per provisions of section 132 of the Act, and their names and designations are required to be recorded in the warrant of authorisation
  - a. Addl. /Joint Director of Income Tax
  - b. Addl. /Joint Commissioner of Income Tax
  - c. Assistant Director of Income Tax /Deputy Director of Income Tax
  - d. Assistant Commissioner of Income Tax/Deputy Commissioner of Income Tax
  - e. Income Tax Officer.
- ii. **Income-tax authority competent to authorise search and other related actions under section 132 and the Income-tax authority that can be authorised.**

Column No. (2) of the table below enumerates the Income-tax authority competent to authorise certain other Income-tax authority to take actions under section 132(1) of the

Act. The designations of the respective Income-tax authority that can be authorised to take such actions (called 'authorised officer') appear at the corresponding lines of Column No. (3).

| (1)    | (2)                                                                                                                                                | (3)                                                                                                                                                   |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| S. No. | Income-tax authority competent to authorise the authorities referred to in column (3) to carry out a search and take certain other related actions | Income-tax authority who can be authorised by the authorities referred to in column (2) to carry out searches and take certain other related actions. |
| 1      | Pr. Director General of Income Tax/ Pr. Chief Commissioner of Income Tax                                                                           | (1) Joint/Addl. Director of Income Tax                                                                                                                |
| 2      | Director General of Income Tax /Chief Commissioner of Income Tax                                                                                   | (2) Joint/Addl. Commissioner of Income Tax,                                                                                                           |
| 3      | Pr. Director of Income Tax/Pr. Commissioner of Income Tax                                                                                          | (3) Assistant Director of Income Tax,                                                                                                                 |
| 4      | Director of Income Tax/ Commissioner of Income Tax                                                                                                 | (4) Deputy Director of Income Tax,                                                                                                                    |
|        |                                                                                                                                                    | (5) Assistant Commissioner of Income Tax,                                                                                                             |
|        |                                                                                                                                                    | (6) Deputy Commissioner of Income Tax,                                                                                                                |
|        |                                                                                                                                                    | (7) Income-tax Officer                                                                                                                                |
| 5      | Such Joint/Addl. Director or Joint/Addl. Commissioner, as authorised by the authorities above                                                      | (1) Assistant Director of Income Tax,                                                                                                                 |
|        |                                                                                                                                                    | (2) Deputy Director of Income Tax,                                                                                                                    |
|        |                                                                                                                                                    | (3) Assistant Commissioner of Income Tax,                                                                                                             |
|        |                                                                                                                                                    | (4) Deputy Commissioner of Income Tax,                                                                                                                |
|        |                                                                                                                                                    | (5) Income-tax Officer                                                                                                                                |

iii. The form for authorisation as prescribed under Rule 112 of Income Tax Rules should be used for the preparation of the authorization.

iv. The following precautions should be taken while preparing the warrant of authorisation:

- a) Each warrant should have a unique warrant number mentioned thereon.
- b) The correct names of the person/ persons [ as appearing in records available with the department, if any] in respect of whom search action is being contemplated should be very clearly mentioned. Similarly, the address of the premises being authorised for search should be correctly and clearly mentioned.

Care should be taken to include the names of the main persons of the group so that the nexus of the premises searched is established with the searched group. In case the search warrant contains name of more than one person, the satisfaction note must contain satisfaction [reason to believe] regarding each person in whose case the search warrant has been issued.

**Distinction between the ‘person(s) being searched’ and the ‘premises being searched’**

- c) Where the residences occupied by partners, directors, employees, associates, etc. of the main entity are to be searched based upon satisfaction against such entity, the distinction between the ‘person(s) being searched’ (the main entity) and the ‘premises being searched’ (residences occupied by partners, directors, employees, associates, etc) should be noted carefully. For illustration, if satisfaction is against "X" and it is suspected that the evidence with regard to his unaccounted income/asset is to be found at premises of "Mr.Y", its partner/director/ employee/ associate, etc, situated at "ABC", in such case the warrant of authorisation would specify "X" as the person in whose case search has been authorised and Premises of "Mr. Y" situated at "ABC" as the premises being authorised for search. In case the person occupying the premise is not known, despite making the best efforts possible in the available timeframe, the address of the premise with the name of person supposed to be searched should be clearly mentioned in the warrant of authorisation. It is important considering that Block assessments u/s 158BC are to be opened only in warrant cases [ X in the above example]. In case of other persons [Mr. Y in the above example], the assessment u/s 158BD can only take place if the conditions mentioned therein are satisfied.
- d) While preparing the warrant(s) of authorisation for searching business premises, the name of the person occupying the premises and doing business therein, i.e., firm, company or proprietor, as the case may be, should be mentioned. Wherever it is apprehended that any assets belonging to the individual partners or directors are also likely to be recovered from the business premises, it is advisable to include the partners’ and directors’ names in the same authorisation warrant.
- e) In the case of bank lockers, etc., the name(s) of the person(s) to whom the lockers belong/ who has/have hired the locker should be written at the appropriate place in the warrant of authorisation. The details of the locker(s), including locker no., held/hired by them should be given along with the name of the branch of the bank and address in the column/ space meant for describing the place.
- f) Each warrant signed may include the names of the conducting DDIT/ADIT, the unit head and at least one more DDIT and ITO (Investigation) of the unit so that the carrying on proceedings, after the search, in the case are not affected due to the absence of one of the Authorised Officer.
- g) In case of a large number of person(s) to be searched, in whose case warrants have been issued, the names of the searched person(s) may be mentioned in the Annexure to the warrant. The annexure should be duly signed by the competent authority (Reference may be made to para 1.6.7(ii), above) and have the same warrant number also. Corresponding entry in the main body of the warrant should also be made linking the annexure clearly to itself.

It may be appreciated that in the above context [para 1.6 on Satisfaction Note], the Pr.DIT(Inv.) is referred, inter alia, as the authority forming 'reason to believe' and issuing warrants as this is the usual practice followed. However, it is clarified that, the Authority competent to issue the warrants as per the Income-tax Act, 1961, can issue the warrants, subject to the applicable statutory conditions/notifications. In this context, it may however be noted, that a Joint/ Addl. Director of Income Tax (Investigation) authorised by the Pr. DIT (Inv.) for searching in the case of a person can issue a consequential search warrant for searching new premises of the persons being searched. Consequential search action can be authorised, in case of the premises where there is a reason to suspect that any books of account, other documents, money, bullion, jewellery, or other valuable article or thing of the persons in whose cases action u/s 132 of the Act has already been authorised by the Pr. DIT (Inv.), during the ongoing search, are kept.

**1.6.8.** After getting the warrants signed and issued, each warrant should be entered in the Register of Authorizations to be maintained by the concerned JDIT/Addl DIT (Inv.). The warrant number should invariably be mentioned in the Register of Authorization. As Search and Seizure details are also required to be entered in the ITBA Investigation Module, timely and correct entries therein can ensure generation of Search Register over the said module.

**1.6.9.** If a survey u/s 133A of the Act is also required to be carried out independently or, along with a search action being carried out, then the necessary approval should be obtained from the DGIT(Inv.).

### **1.7. Forms of authorisation**

Rule 112 of the Income-tax Rules, 1962 prescribes the following forms of warrant of authorisation:

- (1) **Form No. 45:** Authorisation under section 132(1) of the Act (other than an authorisation under the first proviso thereto) issued by the authority referred to therein viz., DGIT, DIT, or CCIT, CIT, empowered DDIT/DCIT having jurisdiction over the person in respect of whom search is being authorised (Rule 112(2)(a) of the Income-tax Rules, 1962).
- (2) **Form No. 45A:** Authorisation under the first proviso to section 132(1) of the Act issued by CCIT /CIT where any building, place, vessel, vehicle or aircraft is in his jurisdiction but the person in respect of whom the search is being authorised is not in his jurisdiction (Rule 112(2)(b) of the Income-tax Rules, 1962).
- (3) **Form No. 45B:** Authorisation under section 132(1A) of the Act issued by the CCIT/CIT in the circumstances mentioned therein (Rule 112(2)(c) of the Income-tax Rules, 1962).
- (4) **Form No. 45C:** Authorisation under section 132A(1) of the Act issued by DGIT/DIT/CCIT/CIT for requisition of books of account, documents and assets already in the custody of any officer or authority under any other law for the time being in force (Rule 112D(1) of the Income-tax Rules, 1962).

### **1.8. Preparations for the conduct of a search**

Some main steps in planning and preparing for search operations are:

- (1) Fixing the date of search and strike time
- (2) Mobilisation of manpower and arrangements for boarding and lodging
- (3) Setting up and management of the Control Room
- (4) Formation of search teams and nomination of leaders of the teams so formed
- (5) Preparation of brief for the Authorised Officers
- (6) Preparation of search packets or kitbags
- (7) Security arrangements [Police/ CAPF requisitions], wherever needed
- (8) Identification of forensic experts for backup and analysis of digital evidence
- (9) Arrangement for transport
- (10) Coordination with other Directorates of Income Tax (Investigation)/Investigation Units, where required
- (11) Identification of valuers for valuing bullion, jewellery, other valuable article and thing, etc.
- (12) Sealing of envelope containing the warrant of authorisation
- (13) Selection of assembly point(s)

### **1.9. Fixing the date of search and strike time**

The conducting unit should carefully select the date of the proposed search and strike time in consultation with the Pr. DIT (Inv.). Some points that could be useful in deciding the matter are, in brief, as under:

- a) Though there is no bar on initiation of search on any day/time, however, as far as possible, it should not be initiated on a public holiday or community festivals, etc.
- b) Specific information about the presence or possible movement of cash, bullion, jewellery or other valuable article or thing on a specific day or time may be taken into account while fixing the date of search and strike time.
- c) For the purpose of search, there is no prohibition in law in entering the premises, whether residential or business, before or after sunset. However, for surveys [even for

those launched with Search & Seizure operations], the provision of section 133A(2) of the Act should be considered regarding the initiation of the survey.

- d) The availability of the main persons proposed to be searched should be ascertained. Strike time should generally be the time at which the main person(s) is likely to be available in the premises to be searched.
- e) Unless deemed necessary, days of family functions/ events such as weddings/ last rituals, etc. in the main target person's family should be avoided.

#### **1.10. Mobilisation of manpower**

**1.10.1.** Manpower is mainly needed for the following work:

- a) Staffing the Control Room
- b) Participation in search/survey work
- c) For miscellaneous jobs like, verifications of bank accounts, lockers and other information detected as a result of search
- d) Identification and verification of new premises identified during the course of search proceedings
- e) Mobilization of the technical manpower for digital forensics
- f) Reserve manpower and security personnel

**1.10.2.** The conducting unit should determine the requirement of manpower, keeping in view the requirements mentioned above. Factors like, number of premises, the size of the premises, number of exits and entries to be guarded, type of locality, number of occupants of the premises and the volume of work involved in the operation should be taken into account for assessing the manpower requirement. While planning for the search operation at a residential premise where presence of female(s) is expected, it should be ensured to include female(s) Officers/Officials, in the search team. Care should be taken to keep some manpower in reserve for any unforeseen event and for covering additional premises detected during the course of search.

**1.10.3.** The required manpower may be drawn from the Investigation Wing and other Income Tax offices in the Pr.CCIT's region. The Board has issued communication vide letter [F. No. 286/15/2015-IT \(Inv-II\) dated 12.02.2015](#) to the Pr. CCsIT to ensure that manpower requirements of the Investigation Directorate for the conduct of searches are fully met. In case of a large search/survey action, if locally available manpower is insufficient, assistance can also be requested from the other regions.

**1.10.4.** A requisition for manpower should be made to the concerned Principal Chief Commissioners of Income Tax (Pr. CITs) / Chief Commissioners of Income Tax (CCsIT), clearly indicating the following details:

- **Number of officers required**
- **Names and designations of officers**, if already identified by the Investigation Unit
- **Reporting instructions**, including:
  - Date and time of reporting
  - Reporting location
  - Name, designation and phone number of the officer to whom the personnel should report
- **Any other relevant instructions or operational points**

Since the names of the officers have to be mentioned in the warrants of authorisation, it is important that the requisition of officers be made sufficiently in advance. Also, the officers identified and made available, should **not** ordinarily recuse from such duty unless the Investigation wing duly approves of such request.

The officers/officials should be advised to –

- (i) bring their identity cards and official stamps without fail, and
- (ii) not to carry more than the minimum cash with them and not to wear any expensive jewellery.

Jewellery like *mangalsutra*, or wedding ring may be worn. When there is a likelihood of any official being deputed outside the headquarters and/ or in a different weather condition, as far as possible, sufficient indication of the same may be given in the requisition without mentioning the final destination. Also, wherever needed, including in case of outstation searches, search team members may also carry non-official Id cards, like Voter Id cards, Aadhaar card, Driving License etc., to avoid being identified as Income Tax personnel at check points/airports/railway stations, etc.

### **1.11. Setting up of Control Room**

**1.11.1.** If the search operation(s) is/are being conducted at the premises situated in one city only, a Control Room should be set-up, preferably in a building of the local Income Tax Office. However, where the premises being searched are spread over more than one city, the control room may be set up in the city where the main or most of the premises being searched are situated. In addition to this, the Joint/Addl. DIT (Investigation) may, in consultation with the Pr. DIT (Inv.), also consider the feasibility of setting up branch Control Rooms at other cities

where other premises being searched are situated. As far as possible, the Joint/Addl. DIT (Inv.) should head the Control Room team. However, if the situation so demands, any other officer not below the rank of an Assistant Director of Income Tax can be nominated as the officer-in-charge of the main Control Room. Officer(s) not below the rank of ITO may head the branch control rooms. The number of other officers in the Control Room(s) can be decided keeping in view the volume of work.

The Mobile Nos. of the officer(s) in the control room should be made available to each search party.

**1.11.2.** The main functions of the Control Room are as follows:

#### **Search team**

- To act as a communication link between the Authorised Officers and the conducting unit
- Handling of matters relating to handing over of sealed envelopes containing warrants of authorisation and other relevant papers and material to the leaders of search teams
- Marking the attendance of the officials detailed for search job and identifying persons who failed to report to duty
- Assisting the concerned Joint Director of Income Tax (Investigation) in briefing the officers detailed for search work

#### **Logistics**

- Coordination and assistance in the movement of search teams from the assembly point to the premises to be searched
- Looking after arrangements for food, refreshments, drinking water, medicines, etc. for the members of search teams and other personnel detailed for search and related activities
- Making arrangement for additional manpower, police personnel, valuer(s), forensic experts, etc. and their deployment, if and when necessary

#### **Coordination**

- Attending to messages received from search teams, interacting with leaders/Authorised Officers of search teams, passing on messages to the conducting unit and communicating messages, instructions, etc. to search teams.
- Coordination with other enforcement agencies and organisations in matters arising out of, relating to or relevant to the search

## **Recording & Reporting**

- Considering telephonic or other reports of search teams for concluding or suspending search operations and communicating the decision taken by conducting unit to search teams
- Collection of information from search teams for the preparation of two-hourly reports/other reports
- Maintenance of record of all critical and important activities and events relating to search and other related operations
- Maintenance of record of important messages received from search teams and others and the response given to them by, or through the Control Room
- Maintaining record of premise wise status taken at regular intervals for perusal of the conducting unit

The functions pertaining to Digital evidence related procedures discussed in the Digital Evidence Investigation Manual should also be duly carried out.

### **1.12. Nomination of Custodian**

The Joint/Addl.DIT (Inv.) should nominate an officer not below the rank of an Income Tax Officer (preferably an officer of the Investigation Wing) to perform the functions of a Custodian referred to in sub-rules (11), (12) and (13) of Rule 112. The Custodian should be available in the Control Room. In suitable cases, the same officer can perform the functions of the officer-in-charge of the Control Room and Custodian.

### **1.13. Formation of search teams**

The Conducting Unit should:

- (i) constitute search teams, based on the names appearing in the warrant(s) of authorisation and commensurate with the size of the premises and other relevant factors; for each search team, nominate an Authorised Officer, as a team leader, having regard to considerations like seniority, zeal, aptitude, past performance, etc. of the available officers; and,
- (ii) assign unique number to a search premise for better coordination.

### **1.14. Preparation of 'brief' for the Authorised Officers**

**1.14.1.** Generally, 'brief' is a note given by the conducting unit to the search teams. It is not necessary to prepare identical briefs for all search teams. It is good practice to prepare two briefs. One general brief can be a brief common to all teams stating the information relevant to all search teams, and the second brief is specific to a particular search team. Care should be

taken that brief has only relevant information and should not be loaded with unnecessary data/information so that an effective message about the group, what is expected from the search team, what is likely to be found, what precaution/care is expected from the team is communicated without wasting the time of the search team. The brief, being confidential in nature, should be kept in a sealed envelope. The brief should, inter alia, include the following:

- The focus of the search should be clearly spelt out. Generic guidance should be avoided.
- It should give salient features of the information available against the person(s) in whose cases the search(es) is/are being conducted, including available information, if any, about the modus operandi adopted by the person(s) concerned for concealment of income/assets, tax evasion, etc.
- The brief may also contain suggestions, if any, on the strategies to be adopted or processes to be followed while searching the premises.
- It should also give particulars of the person(s) in whose case the search(es) is/are being conducted, his/their family tree(s), etc.
- In suitable cases, the brief may also contain information like, the names and addresses of all persons, business concerns, business associates, trusted employees, advisors, etc. of the group of persons in whose cases the searches are being conducted and a description of their business or other economic activities, etc.
- Any behavioural peculiarity of the occupants; dogs, guards, armed guards, weapons, etc.
- In the interest of time, check list of mandatory activities and premise specific activities should be spelt out.
- Some other useful information which can be included in the brief is as follows:
  - (1) If the photograph(s) of the main person(s) in whose case(s) the search has been authorised and the premises to be searched are available, the same should be appended to the brief.
  - (2) The brief should also contain a route map for reaching the premises to be searched, information about the salient physical features of the premises to be searched and such other information gathered as a result of reconnaissance, surveillance, etc. as is likely to help identify the premises, conduct of search and precautions required to be taken by search teams.
  - (3) The brief should also contain telephone and mobile numbers of the Control Room, officers manning the Control Room, the concerned Joint/Additional DIT (Investigation), DDIT/ADIT (Investigation), Pr. DIT (Investigation), police station nearest to the premises.

(4) The brief may also contain information, if available, about the place(s) where undisclosed books of account, incriminating documents, unaccounted money and undeclared valuables, stock in trade, etc. are likely to be found; the likely mode of utilisation of the unaccounted money; likely location of digital devices, storage media, etc. evidencing tax violations; and likely location of secret chambers, underground cellars, cavities, etc.

**1.14.2.** Ideally, there should be an oral briefing before search teams leave the assembly point for the premises to be searched. It should, however, be ensured that the names of the persons/ premises proposed to be searched are not divulged in such oral briefings.

### **1.15. Preparation of search kits**

**1.15.1.** Search kit packets containing an adequate quantity of the following material should be provided to search teams:

- (1) Form for requisitioning witnesses and security personnel
- (2) *Panchnama* form
- (3) Form of order under section 132(3)
- (4) Form of order under second proviso to section 132(1)
- (5) Form of summons under section 131
- (6) Format of administering oath or affirmation to persons being examined
- (7) Charter of Rights and duties of the searched person
- (8) Bags for sealing the seized materials and trunks with locks and cloth pieces, as required
- (9) Sufficient numbers of official brass seal(s)
- (10) Required stationery and sealing material like, paper, carbon paper, copying pencils, markers, pens, stamp pad, office seals, sealing wax, needles, thread, match box, candles, adhesive tapes, pins, staplers, clips, tags and envelopes, etc.
- (11) Relevant storage devices for forensic backing up of digital evidence.
- (12) Form for an inventory of books of account and documents found/ seized.
- (13) Form for an inventory of cash found/seized.
- (14) Form for inventory of bullion, jewellery and other valuable article or thing found/seized.

- (15) Form of checklist to be submitted by the Authorised Officer to the control room/custodian.
- (16) Form of search report to be submitted by leader of the search team on conclusion of the search.
- (17) Any other pre-printed stationery or pre-designed formats.
- (18) Petty cash for miscellaneous expenses.
- (19) Metal detector to detect any metallic objects or cavities in the premises

#### **1.16. Official Brass Seal**

**1.16.1.** Official brass seal constitutes an integral part of the search kit. It is used for a variety of purposes like, sealing of packages containing seized bullion, jewellery and other valuable article or thing, sealing bank lockers and other receptacles put under restraint order under section 132(3), sealing of bunched loose documents to be seized and the digital evidence, etc.

**1.16.2.** The following points relating to its size, shape and maintenance merit a brief mention:

- (1) The Investigation Directorate should decide the pattern of seal, its size and shape. Each seal should bear a separate distinctive number.
- (2) There should be a proper record of all the seals in use indicating their movements to avoid any misuse and scope for suspicion.
- (3) One set of seals should be used for a limited period of time. It should thereafter be replaced by a new set of seals. Discarded seals should be destroyed and records thereof maintained. The description of the seal used during search and seizure proceedings should preferably be recorded in panchnama.
- (4) As and when any seal is issued to a search team, acknowledgement for its receipt should be obtained from the leader of the team.

#### **1.17. Security arrangements**

**1.17.1.** The conducting unit should make suitable security arrangements in advance. Requisition for an adequate number of security personnel can be made to the local police head/concerned police authority. However, names, addresses, and other details of the persons/ premises to be searched should not be disclosed to them. The number of security personnel to be provided to each search team should be worked out keeping in view the size of the premises, locality and other relevant factors. In appropriate cases, the requisition can also be made to special police organisations or para-military forces.

**1.17.2.** The requisition for **Central Armed Police Forces ('CAPF')**, if required, should be made well-in-advance to the **Commissioner (Inv.), CBDT through the Pr. DIT(Inv.)**

**concerned.** The Guidelines containing Dos and Don'ts while making the requisitions for CAPF/CRPF, as received from the MHA vide their communication vide **F. No. [CRPF's communication No. MV1/2022 DA 1\(I/Tax\) dated 09.12.2022](#)**, were forwarded by the Board to the DGsIT(Inv.) for necessary action.

#### **1.18. Transport arrangement**

**1.18.1.** Suitable arrangements should be made for the transport of the search teams from the assembly point(s) to the premises to be searched and for other related jobs. Where private vehicles are hired, the purpose of hiring and destinations should not be divulged. It is also advisable that the vehicles are discreetly parked so as not to raise public attention.

**1.18.2.** Further, it should be ensured that vehicles should not have any stickers suggesting any association with a specific group or a political or religious grouping. Further, under no circumstances should a vehicle bearing an official plate or the official logo of the Govt. be used.

**1.18.3.** In case search team(s) are moving to a faraway place, provision for some spare/additional vehicles to be sent along with the team(s) may also be made, if needed.

**1.18.4.** Under no circumstances, the official Id Card should be used at the Toll Plazas and invariably payment should be made automatically through the Vehicle's fast-tag or cash.

#### **1.19. Coordination with other Directorates of Income-tax (Investigation)/ Investigation Units where required**

Where any search or survey operation is to be carried out with the assistance of other Directorates of Income Tax (Investigation), suitable communication should be sent by the Pr.DIT(Inv.) to the Pr. DsIT(Inv.) concerned at the appropriate time, to ensure coordination, as needed.

#### **1.20. Identification of valuers for valuing bullion, jewellery, other valuable article and thing etc. and forensic experts**

The DGIT/Pr. DIT (Investigation) should maintain a panel of registered/ approved valuers for the purpose of valuation of bullion, jewellery and other valuable article and thing including paintings and artefacts so that their services can be requisitioned at short notice during the course of the search. He should also maintain a list of forensic experts whose services can be requisitioned at short notice for the purposes of handling digital devices and evidence [Refer **Rule 13** and **Rule 13A** of Income-tax Rules, 1962 & Advisory for smooth implementation of Rule 13 & Rule 13A for DGsIT(Inv.) Charges vide **F. No.286/72/2023-IT(Inv. II)** dated **[04.12.2023](#)**].

### **1.21. Requisition of forensic experts**

**1.21.1.** The relevant provisions of section 132 of the Act have been amended vide the Finance Act, 2023 to provide that during the search, the Authorised Officer may requisition the services of any other person or entity, as approved by the Principal Chief Commissioner or the Chief Commissioner, the Principal Director General or the Director General, in accordance with the procedure prescribed by the Board in this regard, to assist him for the purposes of the search.

**1.21.2.** In the recent past, due to the increased use of technology and digitisation in every aspect, including management and maintenance of accounts, digitisation of data, cloud storage etc., the procedure for search and seizure has become complex, requiring the use of digital forensics, advanced technologies for decoding data, etc., for complete and proper analysis of accounts. Similarly, there is an increasing trend of undisclosed income being held in a vast variety of forms of assets or investments in addition to immovable property. Valuation of such assets and decryption of information shall require specific domain experts like digital forensic professionals, valuers, archive experts, etc.

**1.21.3.** Similarly, during and post search enquiries, the Authorised Officer may make reference to any person or entity or any valuer registered by or under any law for the time being in force, who shall estimate the fair market value of the property in the manner prescribed and submit a report of the estimate to the Authorised Officer or the Assessing Officer within sixty days from the receipt of such reference.

### **1.22. Sealing of envelope containing the warrant(s) of authorisation**

The conducting unit should ensure that the warrant(s) of authorisation, sufficient copies of the brief for the search team, route map and location map of the premises are securely placed in a sealed envelope. The following information should be incorporated on the top of the sealed envelope:

- (1) Date of search and time of strike
- (2) The place and time at which the sealed envelope should be opened, providing reasonable time for the leader of the search team to go through the brief and the route map
- (3) Identification details of the search team and the names, designations and mobile numbers of the leader and other member(s) of the team
- (4) Phone number(s) of the Control Room.

### **1.23. Selection of assembly point(s)**

The assembly point is a place where members of the search teams assemble before proceeding to the premises to be searched. The sealed envelope containing the warrant of authorisation, search packets, etc., is handed over to the leaders of the search team at this point. The place

selected for assembly should be such as not to arouse suspicion. Use of decoy assembly points/stations may be explored to keep the secrecy of the operation intact.

#### **1.24. Provision of stay and refreshments to search teams and other personnel**

The conducting unit should make suitable arrangements for the stay of the search teams and also for providing refreshments and meals to the search team member(s), and other personnel deployed for search-related activities. A sufficient amount of money should be provided to search teams to meet any incidental expenses. In case centralized food/refreshment arrangements are made, then same should be mentioned in the brief.

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## **CHAPTER - 2**

### **CONDUCT OF SEARCH AND SEIZURE OPERATIONS**

#### **2.1. Background**

Section 132 of the Act, read with Rule 112 of the Income-tax Rules, 1962, lays down the statutory provisions for exercising authority by Income-tax authority for the conduct of search and seizure actions. CBDT has issued a number of guidelines in the past on various aspects of the subject matter for the guidance of the field formation, which should be referred to in different conditions and circumstances, as applicable.

#### **2.2. Designating a leader of the search team**

For effective co-ordination and communication with the control room during the search action and to ensure proper work discipline in the search team, the conducting unit should designate an Authorised Officer as the leader of the search team, having regard to considerations like seniority, zeal, aptitude, past performance, etc. of the available officers.

#### **2.3. Actions to be taken after the handover of sealed envelopes and before the strike time**

**2.3.1.** The conducting team hands over a sealed envelope containing the warrant of authorization and other confidential papers to the leader of the search team. Based on the instructions given by the conducting team, the team leader should open the sealed envelope at the time and place mentioned on the sealed envelope or as communicated by the conducting team.

**2.3.2.** The search team leader should take reasonable steps to ensure the secrecy of the operation before the commencement of the search. These may include the following:

- (1) In case there is some confusion regarding the exact location of the premises to be searched, he should either himself take up the identification of the premises to be searched or depute a member of the team shortly before the strike time for the same. Strike time is the time fixed by the conducting team for the simultaneous entry of search teams in the respective premises.
- (2) Members of the search team other than the team leader, and a small number of such other members as have been identified by him in advance, should switch off their mobile phones while travelling from the assembly point to the premises to be searched till the team leader allows them to switch them back on, after initiation of search. This will reduce the possibility of the search team's movements being tracked. If the search is to be conducted in another city/town, care should be taken to ensure that the final destination of vehicles carrying the search team is known to select persons only. As far as possible, instead of disclosing the final destination, the checkpoint system/incremental locations can be used. The team leader should ensure that other persons accompanying the search team, like security personnel or drivers, do not

communicate their movement to others. The team leader should take all adequate steps, including asking the team members to get the mobile phones/communication devices of these persons switched off. If required, the team leader may also take the mobile phone/communication devices in his/her custody till the commencement of the search.

- (3) The team leader should ensure that his team members enter the premises which are to be searched precisely at the strike time. If a search team reaches the premises which are to be searched early, it should remain at a safe distance from the target premises until the strike time approaches. Necessary co-ordination may be made with the Control Room for this purpose.

The Control Room should monitor the location/movement of important search teams regularly and may change strike time and communicate with the teams in real-time. The aim is to strike all the premises simultaneously and avoid one target person alerting the others. Needless to say, the conducting unit is at liberty to decide the strike time regarding various premises depending on operational requirements.

- (4) The team leader may decide on the strategy to enter the search premises. In case of anticipated difficulty in entry to the premises or inside the house, the conducting unit should brief the team leader in advance based on the pre-search reconnaissance and suggest the strategy to the team leader.
- (5) The Authorised Officer has the authority of free ingress into the premises authorised to be searched. Thereby, any person in charge of or in the said premises is legally obliged to allow the search team free ingress into the premises and afford all reasonable facilities for a search therein [Rule 112(3) of the Income-tax Rules, 1962].
- (6) If the search team is not allowed entry into the premises despite the exercise of the aforesaid powers, the Authorised Officer should take the assistance of police officers or other officers of the Central Government for the purpose of entering and searching the premises. In certain situations, entry can also be affected by breaking open any outer or inner door or window of the building or place, whether that of the person to be searched or of any other person. This can, however, be done only after notification of his authority and purpose and demand of admittance duly made. The Authorised Officer cannot otherwise obtain admittance [See Rule 112(4)]. It should be ensured that this is done to minimise damage to the property. The power to do so should be exercised with caution.
- (7) Though the law does not require that witnesses should be called to secure the entry, it may still be advisable to have witnesses before breaking open any door, window, etc. If possible, two witnesses may be called before securing entry by breaking open the door or windows. However, where the Authorised Officer has reason to believe that any delay in the entry could jeopardise the search, he may secure the entry without the witnesses. The actual search cannot, however, begin without witnesses.

- (8) If such premises is an apartment in actual occupancy of a woman, who, according to custom, does not appear in public, the Authorised Officer should, before entering the premises, give a notice to such woman that she is at liberty to withdraw. Every reasonable facility should be afforded to her for withdrawing. In such a situation, if there is a lady member in the search team, it is advisable that she should first enter the room and then other party members enter.
- (9) Wherever entry is obtained by breaking open any door or window, etc., and the process results in any damage to the premises or any part thereof, a running panchnama should be prepared specifying the circumstances in which any of the actions described above were taken and the nature and extent of damage caused to any property. The running panchnama should be signed by the leader of the search team, other Authorised Officers, witnesses, if any present and, if possible, the person in occupation or control of the premises. A mention of the incident should be mentioned in the main panchnama. The matter should also be reported to the Control Room at the earliest.

#### **2.4. Showing the warrant of authorization before the commencement of the search**

**2.4.1.** The person in whose case the search is being conducted or the person in occupation or in charge of the premises and the witnesses are entitled to see the warrant of authorisation and read the same. Needless to say, due care should be taken to ensure that the warrant of authorisation does not get damaged or destroyed during the search or afterwards. Accordingly, the warrant itself is not to be handed over to the persons searched as it may entail possible destruction of the same, in some cases.

**2.4.2.** On entering the premises to be searched, the members of the search team should identify themselves to the person in occupation or control of such premises and obtain, on the body of the warrant of authorization, his signature as a confirmation of the fact that the person has seen the warrant. The person should also write the date and time of seeing the warrant. In case there is annexure to the search warrant, signatures of the searched party as well as witnesses must also be taken on the Annexure.

**2.4.3.** In case any person refuses to sign on the body of the warrant of authorisation, the Authorised Officer should record a note to this effect. This should be signed by the Authorised Officer and the witnesses and annexed to the Panchnama.

**2.4.4.** In addition to the warrant of authorisation, the following should also be shown to the person in charge of or in occupation of the premises and the witnesses to the search:

- (1) Valid official identity cards of the leader and members of the search team, and
- (2) Taxpayer's Charter indicating the rights and duties of the persons to be searched [see Charter issued vide [F. No. 289/10/2001-IT\(Inv. II\) dated 7.3.2001](#)]

**2.4.5.** Their signatures should be obtained on both the parts of the Charter, that is, the rights of the person to be searched and the duties of the person to be searched, in the specified format.

**2.4.6.** On reaching the premises, the leader should ensure that the searched premises are adequately secured, both internally and externally, to ensure that documents, books of account, money, jewellery, other valuable article or thing, assets, etc. are not removed from the premises to be searched, and the target persons also do not leave the premises.

**2.4.7.** If a CCTV is installed at the entrance of the premises or outside it, movements of the search team, as far as possible, should be organised so that the occupants of the premises do not get any advance intimation of the arrival of the search team.

**2.4.8.** If intercom systems or telephones or gate entry apps (such as Mygate, Gatekeeper, Entri, etc.) are installed at the entrance of the premises or outside it, or if mobile phones are available with security guards, watchmen, etc., through which communication with the occupants of the premises is possible, one of the members of the search team should take control of such systems. This is to ensure that the occupants of the premises do not get any advance intimation of the arrival of the search team. Similarly, a search team member should also take control of any alarm system if installed at the entrance of the premises.

## **2.5. Requisitioning the services of Police officers and other officers**

**2.5.1.** Ordinarily, the requisition of the services of police officers/armed police personnel is made centrally by the conducting Unit organising the search action and provided to each of the search teams. Once deployed with the search team, these personnel are duty-bound to provide assistance to the Authorised Officer for all or any of the purposes for conducting the search action.

**2.5.2.** However, in case of an emergency where a search team needs more police personnel and requisition of their services through the involvement of the Control Room is likely to cause delay, jeopardising the search and seizure action or physical safety of the members of the search team, an Authorised Officer is empowered to requisition the services of any police officer or any officer of the Central Government, or both, to assist him in carrying out search and seizure actions. It is the duty of every such officer to comply with such requisition. Omission to assist a public servant when bound by law to give such assistance is an offence under Section 222 of Bharatiya Nyaya Sanhitha, 2023 (Section 187 of the Indian Penal Code). Depending upon the circumstance, such requisition may be made before or after the strike.

**2.5.3.** The team leader should also communicate any security and safety issue of the search team or any hindrance caused or likely to be caused by other persons (including outside persons/ groups) to the conducting unit/control room. In such a situation, the conducting unit should take proactive steps by remaining in touch with police officials in the area to avoid any untoward incident. Contact with the local police officials should ideally be made after informing the control room.

**2.5.4.** The search team may encounter severe hostility and even life threats at some premises. The Authorised Officer may ensure the safety of self and his team members while keeping the integrity of the search operation intact, to the extent possible in those circumstances. Moreover,

with adequate prior security arrangements, any untoward incidents with the Search team members can be prevented. Attention is drawn to Board's Office Memorandum [dated 04.08.2009 \[F. No. D- 12015/2/2008-Ad. IX\]](#) on the subject matter of Grant of ex-gratia compensation to the employees of Income Tax Department who die in harness/receive injuries, etc. in the performance of their duties.

## **2.6. Ingress into any vessel, vehicle or aircraft authorised to be searched**

**2.6.1.** The points made above relating to entry into a building or place will apply, so far as may be, to entry into any vessel, vehicle or aircraft authorised to be searched.

**2.6.2.** If ingress into a vessel, vehicle or aircraft authorised to be searched cannot be obtained because it is moving, the Authorised Officer should seek assistance from the appropriate Police or Central Government officers or both to stop the vehicle or vessel or compel the aircraft to stop or land. If an entry cannot be obtained into a static vessel, vehicle or aircraft, the Authorised Officer should notify the commander or the person in control of the vessel, vehicle or aircraft of his authority and purpose and demand admittance to the vessel, vehicle or aircraft. If, despite this, he cannot obtain admittance, he can make a forced entry by breaking open any outer or inner door or window of any such vehicle, vessel or aircraft, whether that of the person to be searched or of any other person [See Rule 112(4A)].

**2.6.3.** After gaining entry into the premises to be searched, the Authorised Officer should report to the Control Room the time at which the search team gained entry into the premises. Other significant developments, if any should also be reported to the Control Room. The search team leader should regularly interact with the Control Room and the conducting unit and report to it all critical events and developments, including vital finds like cash, lockers, incriminating documents or any other significant findings. The team leader should invariably share information that could be of relevance to other search parties. If no message is received for long from a search team, the officer in charge of the Control Room should get in touch with the team leader to ascertain the progress of the search and other significant developments.

## **2.7. Where a locked premises has occupants inside**

**2.7.1.** There can be a situation where the premises are locked from the outside, but there are occupants inside. The Authorised Officer should, when faced with locked premises, make all efforts to find out whether the premises are occupied. If there are occupants inside a premise locked from the outside, the Authorised Officer should ensure that entry into the premises is gained as early as possible, if necessary, by breaking open any outer or inner door or window. He should also take all possible steps to ensure that, in the meantime, the occupants do not destroy or manipulate any document or books of account or evidence (including any digital evidence) or throw out of the premises the same or any money, jewellery, other valuable article or thing, etc.

## **2.8. Where the premises to be searched is found to be locked**

**2.8.1.** Where the premises to be searched is found locked, the Authorised Officer should report the same to the Control Room and wait for further instructions. In the meantime, he should ensure that no one enters the premises. If the search team has to leave the premises without entering and searching the same, this may be done only after the premises has been sealed in the presence of at least two witnesses and a suitable number of armed guards posted outside the premises. Wherever necessary and possible, one or more members of the search team or any official of the Income Tax Department may be deputed to stay outside the premises, along with the armed guards. In such a situation, the Authorised Officer should also issue an order under section 132(3) of the Act. A copy of the said order should be pasted on a prominent place near the entrance to the premises, along with a notice to the public in general, warning the members of the public to refrain from breaking or tampering with the seal and also informing the person(s) to be searched to contact the Control Room at the specified address and telephone/mobile numbers.

**2.8.2.** Where it is suspected that the occupant(s) may not return to the premises to delay the search or that any delay in entering the premises may result in consequences adverse to the process or the purpose of the search, the Authorised Officer should, after obtaining instructions from the Control Room, break open any outer door or inner door or window and enter the premises in the presence of at least two witnesses. Such an event should be intimated, as early as possible, to the local SHO and be endorsed to the CO/Dy.SP/ACP concerned also.

## **2.9. Premises occupied by a person(s) other than the target of the search or those mentioned in the warrant of authorisation**

**2.9.1.** Where the Authorised Officer finds that the premises is occupied by person(s) other than the target of the search or those mentioned in the warrant of authorisation, he should ascertain whether the address of the premises he has reached is,

- (i) different from the one mentioned in the warrant of authorisation, or
- (ii) the same as mentioned in the warrant of authorisation.

**2.9.2.** In the case of (i) above, the search team should immediately proceed to the correct address. However, in the case of (ii) above, the Authorised Officer should immediately report the matter to the Control Room and seek further instructions.

**2.9.3.** There can be a situation where the person(s) in respect of whom the warrant of authorisation was issued or target of the search has/have shifted to another place or premises and are no longer available at the premises mentioned in the said warrant of authorisation. In such a case, the matter should be immediately reported to the Control Room. In case, the current address of the said person(s) is available, the Control Room should be informed about the new address, along with the names of the person(s) presently occupying the premises mentioned in the warrant of authorisation. It should also be ascertained through suitable inquiries whether the said premises actually belongs to the said person(s) or whether the present occupants of the

premises are in any way connected with them. The outcome of the inquiries should be immediately reported to the Control Room. Upon receipt of such a report, the officer-in-charge of the Control Room should take further steps as required, including issuance of a fresh warrant for the correct address.

**2.9.4.** The Authorised Officer cannot take action under section 132(1) of the Act where the address of the premises to be searched specified in the authorisation warrant is incorrect. When faced with any such situation, the Authorised Officer should seek Control Room's instructions. In case the instructions from the Control Room are to withdraw from the premises, the unexecuted warrant of authorisation should be returned to the Control Room, along with a report. The officer-in-charge of the Control Room should pass on the information to the concerned conducting unit, who should examine the matter and take necessary action, such as issuance of a fresh warrant of authorisation with the correct name(s) of the person(s) and the address(es) of the premises to be searched.

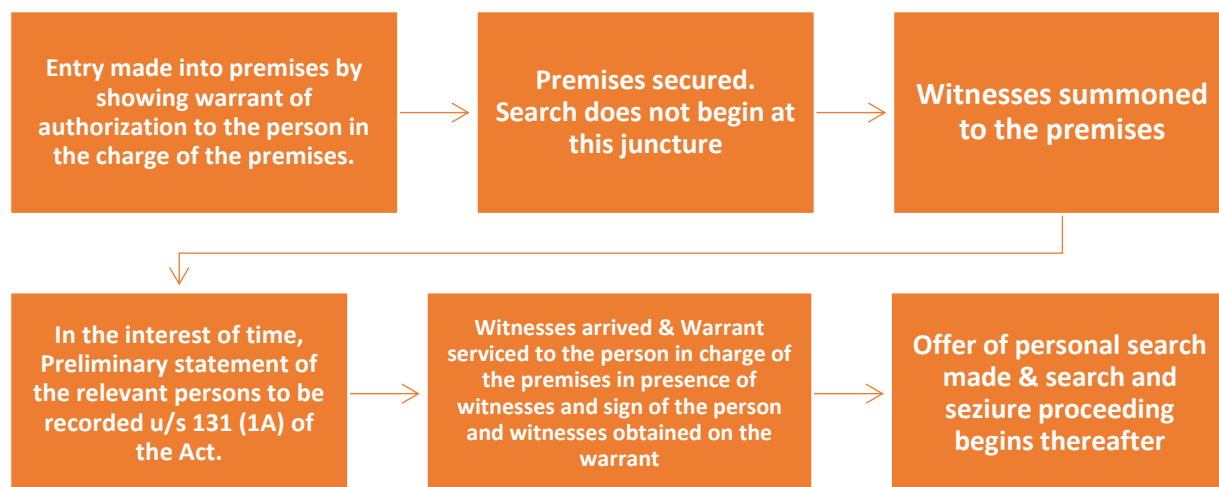
#### **2.10. Warrant of authorisation in the name of a person who is dead**

Where it is found that the warrant of authorisation is in the name of a person who is dead, the matter should be immediately reported to the Control Room. The Authorised Officer should also make suitable inquiries to ascertain the name(s) and address(es) of the legal heir(s) of the deceased and the present occupants of the premises and report the same to the Control Room. On receipt of the information, the officer-in-charge of the Control Room should pass on the same to the concerned conducting unit, who should examine the matter and take necessary action, such as issuance of a fresh warrant of authorisation with the correct name(s) of the person(s) and the address(es) of the premises to be searched. In the meantime, if there is no objection from the occupant of the premises, entry can be made, but an actual search should not begin without a proper warrant of authorisation. The Authorised Officer should send the unexecuted warrant of authorisation, along with a report, to the Control Room. It may be noted that in case the warrant of authorisation is issued in the name of more than one person, one of whom is dead, then the warrant should be executed, and a search can be carried out. However, due care should be taken to record the fact of the death of the person in the statements, and the name of such person should not be mentioned in the panchnama.

#### **2.11. Calling upon witnesses**

**2.11.1.** Before searching the premises, the Authorised Officer is required to call upon two or more independent persons to attend and witness the search. It should be noted that search proceedings can be carried out only in the presence of the witnesses. An indicative sequence of events in this regard is placed below;

**Sequence of events from entering into premises to beginning of the Search**



**2.11.2.** The Authorised Officer should issue an order in writing to the persons selected to attend and witness the search. Non-compliance with the Authorised Officer's said order entails prosecution under Section 220 of Bharatiya Nyaya Sanhitha, 2023 (Section 187 of the Indian Penal Code). With regard to quoting Document Identification Number (DIN) on such communications, the procedure referred to in [CBDT Circular No. 19 of 2019 dated 14 August 2019](#), should be duly followed.

**2.11.3.** As far as possible, the Authorised Officer should keep in view the following points while selecting witnesses:

- (1) The person selected as a witness should be a major and a citizen of India.
- (2) The person selected as a witness should be sufficiently educated to understand the search process.
- (3) A friend, a relative, or an employee of the person whose premises are being searched should be avoided from being appointed as a witness.
- (4) The person selected as a witness should be free from any such physical or mental infirmities as it would affect his functioning as a witness.
- (5) The witness should not be a business rival, a disgruntled employee, or a person hostile to the person(s) in whose case the search is being carried out or the person in the occupation or control of the premises being searched.
- (6) The legal advisor or consultant of the person(s) whose premises are being searched should not be appointed as a witness in any circumstance.

- (7) Religious sentiments of the person(s) whose premises are being searched or who are in the occupation or control of the premises being searched should be kept in view while selecting witnesses.
- (8) An employee of the Income Tax Department should not be selected as a witness.
- (9) A public servant, bank employee, etc. can be selected as a witness.

**2.11.4.** Even though witnesses are to be selected by the Authorised Officer, if the person in whose case the search is to be conducted or the person in occupation and control of such premises raises any objection with reasons against the selection of a particular person as a witness, the Authorised Officer should take such objection into account before taking a final decision.

**2.11.5.** The main duties of a witness to the search are as under:

- (1) The witness should read and understand the warrant of authorisation.
- (2) The witness should witness the search carefully, from its commencement to its closure. His role as an independent and impartial witness demands that he carefully observes whether:
  - (i) the search and seizure operations are being carried out in an orderly manner and in accordance with the law, without any interference and, tampering or destruction of any evidence or valuables;
  - (ii) statements on oath of persons are being recorded correctly, without any undue influence or coercion;
  - (iii) personal search of a female occupant is being taken only by female members of the search team with regard to decency;
  - (iv) facts relating to the search and seizure are being recorded correctly and accurately in the panchnama, inventories and all other relevant documents, and
  - (v) in case of continuance of a search on a subsequent date, the seals are intact at the time of entry and are being broken in his presence for re-entry to continue the search.
- (3) The witness should not leave the premises without the permission of the Authorised Officer. Refusal by a witness to stay till the end of the search constitutes an offence under Section 220 of Bharatiya Nyaya Sanhitha, 2023 (Section 187 of the Indian Penal Code). In case a witness is required to leave the premises for any unavoidable reason, a new witness should be appointed before the earlier witness is permitted to leave the premises. A running panchnama should also be drawn recording the sequence of events.

It should be ensured that at least two witnesses remain present at all times at the premises during the search action.

- (4) The witness should affix his signature on all packets containing seized bullion, jewellery, etc. and documents and statements like the warrant of authorisation, copy of the Taxpayers' Charter containing the rights and the duties of the persons being searched, inventories of books of account, documents and valuables, panchnama and its annexures.
- (5) The Witnesses are not supposed to be made to participate in the rummaging or any Search & Seizure related activities which are supposed to be carried out by the Search team. However, the witnesses are required to observe all such procedures whose details are required to be mentioned in the panchnama of the search & seizure proceedings.

**2.11.6.** If a witness raises any objection or makes any point relating to the process or procedure of search or any matter related to it, the leader of the search team should consider and decide the same.

**2.11.7.** If a witness turns hostile, the Authorised Officer should record his statement. He should be specifically asked to explain his conduct. The services of a hostile witness should be dispensed with. The matter should also be reported to the Control Room as early as possible. If because of one or more witnesses turning hostile, the number of witnesses becomes less than two, other respectable persons of the locality may be appointed as a witness. If a hostile witness refuses to give or sign a statement, this fact may be recorded in the presence of other witnesses and the Authorised officers, and their signatures may be obtained on the running panchnama so recorded. This running panchnama should be appended to the report which the search team leader must submit to the Control Room/conducting unit.

**2.11.8.** If any witness refuses to sign the panchnama or any other document, which he is required to sign, during or at the end of the search, his statement on oath should be recorded. He should be asked explicitly about the reason for such refusal. A running panchnama should be prepared describing the circumstances in which the witness refused to sign the panchnama. All the members of the search team and the remaining witnesses should sign the running panchnama, which should be made a part of the panchnama. All such developments should be reported to the Control Room at the earliest. In such a condition, running panchnama should be drawn recording the situation which led to witness leaving the premises being searched, along with date and time and details of the new witness. The AO should issue fresh order appointing new witness.

**2.11.9.** In suitable cases where the conduct of a person appointed as a witness violates the provisions of Section 220 of Bharatiya Nyaya Sanhitha, 2023 (Section 187 of the Indian Penal Code), the matter should be reported to the Control Room for exploring the possibility of launching prosecution against him.

## **2.12. Offer of personal search by the members of the search team**

The members of the search team should offer themselves for search by the person whose premises is being searched or, as the case may be, the person in-charge of or in occupation of premises. This should be done in the presence of the witnesses. Personal search of lady

members of the search team should be allowed only by a lady present in, or occupying, the premises with regard to decency. A mention of the personal search being taken or offered should be made in the panchnama. If the offer of search is declined, then the same should also be mentioned in the panchnama. This offer for personal search of the search team should be made at the beginning as well as at the conclusion of the search.

### **2.13. Personal search**

**2.13.1.** The Authorised Officer has the power to search any person who has got out of, or is about to get into, or is inside the building, place, vessel, vehicle or aircraft. He may do so if he has reason to suspect that such person has secreted about his person, any books of account, digital device, other documents, money, bullion, jewellery or other valuable article or thing.

**2.13.2.** Personal search should, however, not be carried out indiscriminately and routinely. When such a search involves a female, it should be carried out only by another female member of the search team with regard to decency. Proper manpower planning may prevent a situation wherein no females are present in search team on the searched premises which were expected to contain female members. However, in case no female is present in the search team and personal search is to be carried out then the control room should be requested to immediately send such female officer/official for this purpose to carry out the personal search.

**2.13.3.** A list of relevant things found as a result of a personal search should be prepared. The Authorised Officer, the person searched, and the witnesses should sign this list.

### **2.14. Communication with the Control Room**

After entering the premises to be searched, the team leader should report to the Control Room, the time at which the search team gained entry into the premises. Details of the persons present at the premises and whether the persons in whose name the warrants have been issued are present or not, should be reported immediately to the Control Room. Other significant developments, if any, should also be reported to the Control Room from time to time, preferably within 1 hour of the occurrence of any development.

### **2.15. Preliminary (Initial) Statement**

**2.15.1.** Before the commencement of a physical search (rummaging) of the premises, the Authorised Officer should record preliminary statements of the adult occupants of the premises. If the number of occupants is many, preliminary statements of adults, which in the opinion of the Authorised Officer, are likely to be useful for search proceedings or any other proceedings under the Act, may be recorded. The preliminary statement is to be recorded under oath by the Authorized officer after issuance of summons. A list of basic questions like details of Bank Lockers, Investments, etc may be devised by respective DGIT(Inv.) charges and should be shared with search team as a guidance note. While there can be no specific and comprehensive guidelines for the types of questions that may be asked while recording these statements and will depend on the nature of the case, specific queries on the following areas could be useful:

- (1) Nature of business or profession and the names, addresses and Permanent Account Numbers of all business/professional concerns (including related concerns) in which the searched person and family members are owners or control or manage the business;
- (2) Names, addresses and Permanent Account Numbers of all the partners/directors/members of the partnership firms/ companies/ Association of Persons or other entities like a trust, in which the person in whose case the search is being conducted is a partner/Director/member.
- (3) Details of cash, jewellery, bullion, stock or other valuable article or thing on the premises (including control and possession) and to whom those belong to.
- (4) Whether cash, jewellery, bullion, stock or other valuable article or thing including Virtual Digital Assets (VDAs) belonging to the person or family members is kept with someone else outside the searched premises or belonging to someone else is kept with the searched person or family members in the searched premises or other premises under his control, including lockers;
- (5) Details of bank names and branches in which the searched person and family members have bank accounts, whether held singly or jointly or in any other name in which either he is a beneficiary or has control of the account.
- (6) Details of bank lockers, other lockers, safe deposit vaults, etc. hired either in the name of the person in whose case the search is being conducted or that of any of the members of his family, either singly or jointly or in any other name in which either he is a beneficiary or has control of the lockers, vaults, etc. The present whereabouts of the person(s) who are authorised to operate the said locker(s), vault(s), etc. should also be obtained. Information about the number of keys of bank lockers, other lockers and vaults, etc., issued by the bank or any other concern and whether all such keys are available in the premises or kept with any other person should be obtained;
- (7) Information about the books of account and documents being maintained, whether manually or on computer;
- (8) Existence of any secret chamber or locker in the premises including bio-metric lockers;
- (9) Place(s) where books of account, documents, money, bullion, jewellery, other valuable article or thing, bank/other locker keys, computer systems, etc. of the person are kept;
- (10) Computers, other digital devices and data storage media in the premises and the names, addresses, telephone/mobile numbers and present whereabouts of the persons (including computer professional/Data Entry Operator, if any hired) who usually handle them;
- (11) Whether the person has taken loan/ advance from or given loan/ advance to someone.

**2.15.2.** The Authorised Officer should record preliminary statements in the exercise of the powers available under section 131 (1A) of the Act, if the search has not begun. However, if the search has already begun [warrant has been seen by the person searched/in control of the premises, and has also appended his signature to this effect on the warrant, in presence of witnesses], then preliminary statement may also be recorded u/s 132(4) of the Act. Such preliminary statement is to be corroborated with the statements made after confrontation with the found/seized books of account, documents, money, bullion, jewellery or other valuable article or thing

**2.15.3.** The points made elsewhere in this chapter on recording statements under section 132(4) of the Act should also be kept in view while recording initial statements under section 131(1A) of the Act. Where information gathered from the initial statement(s) is of the nature that would necessitate an immediate follow-up action, the same should be communicated to the Control Room immediately. Some illustrative situations are as under:

- (1) Information so gathered, points to the existence of any bank locker, other lockers, vault, etc., outside the premises authorised to be searched, and the team leader does not know whether a separate authorisation for its search has been issued or not. All relevant information gathered such as the name of the bank/other concern that gave the locker, vault, etc. on hire, branch name, branch address, locker number, etc. should be communicated to the Control Room.
- (2) Person(s) authorised to operate an identified bank locker, other lockers, vault, etc. is/are not present at the premises. Information gathered about his present whereabouts should also be gathered and communicated to the Control Room.
- (3) The key of an identified bank locker, other lockers, vault, etc. is not available at the premises which are being searched. Information, if any gathered about the other premises where the keys are kept, and the name(s) of the person(s) in possession of the same should also be communicated to the Control Room.
- (4) Relevant books of account, documents, computer systems, digital devices, money, bullion, jewellery, any other valuable article or thing including Virtual Digital Assets (VDAs), etc. are kept at some other premises, and the search team does not know whether a separate authorisation for its search has been issued or not. All the information gathered like, address, telephone number(s), etc. of other premises, name(s) of the person(s) in occupation/control of the premises/owners of the premises/person(s) who has the custody of the things lying in the premises and his/their relationship with the person in respect of whom the search has been authorised, should be communicated to the Control Room.
- (5) Information so gathered, points to the existence of other premises of the person(s) in whose case the search is being conducted, and the search team does not know whether a separate authorisation for its search has been issued or not.

**2.15.4.** A copy of the preliminary statement should be sent through electronic mode to the Control Room on the same day it was recorded.

## **2.16. Searching the premises**

**2.16.1.** The occupants of the premises may be requested to occupy one or two rooms, and the remaining rooms should be locked. One or two search team members should be asked to remain present in the rooms where the occupants are asked to stay until these rooms are searched. These rooms should be searched as early as possible so that the occupants can remain there undisturbed.

**2.16.2.** Care should be taken so that the assets and documents found in different rooms are not mixed up. It may be a good idea to draw a rough map of the house, giving numbers to various rooms. It will then be easy to record which room was occupied by which person. While rummaging due care shall be taken to protect the incriminating evidence.

**2.16.3.** The entire premises (including innocuous-looking things or places like waste paper baskets, kitchen lofts and toilets) should be thoroughly searched. Care should be taken to ensure that the search takes place in the presence of the person in charge of the premises and witnesses and that the process of the search is not only fair and transparent but also appears to be so.

**2.16.4.** Incriminating documents, books of account, money, jewellery, bullion and other valuable article or thing may be kept in secret safes, hidden vaults or other places, not easily visible. It should be the endeavour of the search team to detect all such documents, assets, etc. While there can be no specific and comprehensive guidelines for their detection, some points that may be useful in doing so are listed below:

- (1) There can be secret safes, vaults and storage units behind big pictures, idols and paintings.
- (2) Big boxes and other storage units meant for provisions may contain things like keys of bank lockers and safety vaults, pen drives, unaccounted money, jewellery, bullion, other valuable article or thing or books of account and documents.
- (3) Idols of deities may sometimes be used for concealing money, valuables (like precious stones), keys of bank lockers and safety vaults, pen drives, other digital devices, etc.
- (4) Thick walls may have hidden built-in safes or vaults.
- (5) There can be secret hiding places inside the walls, below or within almirahs, below the floors, in toilets, bedrooms and kitchen and inside electrical boards, washing machines, kitchen appliances etc.
- (6) Sometimes it is found that idols are made of precious metals such as gold and silver, though their appearance may be deceptive. However, care should be taken while testing them so as not to damage them. The search team should also be sensitive to the religious sentiments of the persons.

- (7) Vehicles of the person in whose case the search is being conducted, or the person in occupation or control of the premises, parked in the premises or garages or outside the building, may in fact, contain keys of bank lockers and safety vaults, unaccounted money, jewellery, bullion, other valuable article or thing or books of account and documents. Vehicles in the premises should be searched as early as possible, and no vehicle should be allowed to be taken out of the premises until thoroughly searched.
- (8) Sensitive data may be stored in electronic or digital devices. One must look for computers, CDs, pen drives, external hard disks, digital watches, I-Pads, mobile phones, electronic diaries, cloud storage, etc. As far as possible, the digital devices should be placed in a faraday bag. A forensic expert would be required to retrieve the data from these devices.

**2.16.5.** Metal detectors and other gadgets may be used to detect hidden cavities/ valuables where necessary.

**2.16.6.** The Authorised Officer is empowered to break open the lock of any door, box, locker, safe, almirah or other receptacles when the keys are unavailable. In such circumstances, he should first demand the keys from the owner, occupier, or the person in charge and allow reasonable time and opportunity for their production. Only after the Authorised Officer has satisfied himself that the keys are unavailable despite all reasonable efforts he should break open the locks.

**2.16.7.** It should be ensured that the process of detection of secret places for concealing valuables and documents, etc. or breaking open the lock of any door, box, locker, safe, almirah or other receptacles when the keys thereof are not available is done with due care in such a manner that there is minimal property damage. Wherever any lock is broken, or the search process results in any damage to the premises or any part thereof or any moveable property or article or thing found in the premises, a running panchnama should be prepared, specifying the circumstances in which any of the actions as mentioned above was taken and the nature and extent of damage to any property or article or thing that was caused. The running panchnama should be signed by the Authorised Officer, witnesses and the person in occupation or control of the premises. The matter should also be reported to the Control Room as early as possible.

**2.16.8.** It should be ensured that the team is respectful of religious sentiment while searching in-house temples/worship places/idols/holy scriptures/relics.

**2.17. Other steps to be taken by the leader of the search team and its other members**

**2.17.1.** Some steps, which should be taken for orderly and proper conduct of search operations are listed below:

- (1) It should be ensured that money, assets, documents, etc., are not thrown or taken out of the premises or destroyed or damaged in any manner by any occupant of the premises being searched.

- (2) Where the premises being searched has telephones, mobile phones, intercom systems, telex systems, FAX, public address systems or computer systems with or without Internet or network facility, etc., it should be ensured that there is no such communication through them between any person occupying the premises and any other person inside or outside the premises as it would jeopardise the purpose and conduct of the search. If the premises has several telephones, it would be advisable that only one or two telephones are kept operational and one or two search team members are deployed there to attend the telephones. Outgoing calls should be discouraged unless there are emergency calls. Special care in this regard is necessary as mobile phones can be used for sending SMS or MMS, computer systems for sending e-mail messages and certain types of remote devices for manipulating data stored in computer systems without being noticed. The leader of the search team or any other team member so directed by him should control such systems. Special care should be taken about the use of modern-day digital gadgets like watches, spectacles, earphones etc., and those should not be allowed to be used since such devices can be used for communications, which may jeopardize the search process.
- (3) The occupants of the premises should be requested to lock all cupboards, boxes, etc., and hand over all the keys to the Authorised Officer to avoid manipulation of contents therein till a proper inventory of the contents is prepared.
- (4) No outsider should ordinarily be allowed to enter the premises during the course of the search. This should be relaxed only in exceptional situations, like when a medical practitioner is required to attend to someone present inside the premises.
- (5) Where the premises being searched is an office, only those employees who are likely to help explain or produce the books of account, documents, computer systems, etc., should be allowed to remain on the premises. If, on the request of the person whose premises is being searched, or the person in-charge of or in occupation of premises, some or all employees are allowed to stay back in the premises to attend to office work, it should be ensured that their presence does not in any way hinder or jeopardise the process or purpose of the search.
- (6) Children should not be prevented from going to school. However, their school bags should be searched and, if considered necessary, their personal search taken to ensure that they do not carry any such books of account, documents, locker or safe vault keys, digital devices, jewellery, bullion or other valuables article or thing, etc. as would be relevant to the search operation. Similarly, domestic help may be allowed to get in after their personal search.
- (7) Movements of domestic help, drivers, other employees, etc. should be restricted to the minimum, and if the Authorised Officer allows them to leave the premises, their personal search may be taken before they are permitted to leave.

- (8) The occupant or person in charge of the building, place, vessel, vehicle or aircraft, or any other person acting on his behalf, should be permitted to be present throughout the search. However, their legal/tax advisors are not entitled to be present during the search.
- (9) If any relevant person is not found at the premises during the search, this fact, along with his contact detail(s) should be communicated to the Control Room for necessary action.
- (10) No food or refreshment should be accepted from any occupant of the searched premises, as it would be improper to accept such hospitality. There is also a risk of health hazards, including ingestion of intoxicating substances, rendering the team unconscious.
- (11) The entire team should not take food together at same time and the same should be done in small batches and rest of the team should keep vigil.
- (12) If the assessee or team order the food from outside, then while discarding the empty food packets, the same should be thoroughly checked to prevent secreting out of valuables or evidence therein.
- (13) In cases where the persons being searched communicate to the search team about any medical issues needing urgent attention, the team leader may cooperate with the searched person to seek medical assistance, while keeping the integrity of the search operation intact. The sequence of events should be appropriately documented in a running panchnama.

## **2.18. Seizure of books of account, documents, money, valuables, etc.**

**2.18.1.** The warrant authorises the Authorised Officer to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of a search, as have been referred to in section 132(1) of the Act.

**2.18.2.** While the Authorised Officer does not need to record reasons before making a seizure, the power to do so should be exercised with care and caution. Efforts should be made to avoid indiscriminate seizures, which could lead to unnecessary work for the Investigation Wing and Assessing Officers.

**2.18.3.** While it is for the Authorised Officer to decide whether any books of account, documents, money, bullion, jewellery, or other valuable article or thing should be seized or not, in suitable cases, the leader of the search team should seek guidance from the conducting unit/Control Room since they are better placed to take a holistic view of the matter.

**2.18.4.** The category of books of accounts, other documents, money, bullion, jewellery or other valuable article or thing seized should strictly come within the ambit of the clauses either (a) or (b) or (c) of section 132 (1) of the Act. For this reason, it is necessary that the search team is provided with clear information by the assessee regarding the books of account already produced by the concerned persons and the valuables already disclosed by them. In this regard,

the searched person should also be asked to provide evidence supporting any claim regarding the accounting of assets found.

**2.18.5.** In case assets disclosed in the regular books of account have been seized, these can be released by the Assessing Officer as per the provisions of section 132B of the Act. However, in cases where the seized assets will have specific evidentiary value in prosecution, the assets should not be released till the completion of prosecution proceedings.

### **2.19. Books of account and other documents found during the search, their inventory and seizure**

**2.19.1.** It may be useful to record the place within the premises from where the books of account and other documents were found, as it may be relevant to establish their ownership and other related issues in further proceedings. Marks of identification in the form of the signatures of the Authorised Officer, witnesses and the person from whose control and possession of such documents, books of account, etc. were found must be placed. Pages of the documents should be numbered consecutively, including blank pages. However, the blank pages should be cancelled.

**2.19.2.** Books of account and documents that point to, or contain entries relating to, any undisclosed income or transaction of any person should be seized. Where such books of account and documents are found and seized, it may be necessary to seize the books of account and documents maintained in the regular course of business or profession or any other economic activity. These books of account, documents would be relevant for identifying the unaccounted transactions. Where the search results in the detection of any document pointing to the commission of any other economic offence, violations of laws administered by other LEAs, Corruption, Crime etc., the matter should be reported to the Control Room at the earliest for necessary instructions. In case, the books of account are not fully written (up to date), relevant evidence regarding the transactions, not yet updated, may be seized to prevent manipulation of the books of account at a later date. These evidences should be appropriately confronted with the assessee in the statements recorded on oath.

**2.19.3.** Statements recorded under section 132(4) or section 131(1A) of the Act and the explanations offered by the (a) person to whom the books of accounts and documents belong, (b) person in occupation or control of the premises, (c) person who wrote the books of account and documents or dealt with them (e.g. Accountants), or (d) other persons related in some way to the persons described above (e.g. computer professional, or data entry operator, patients of a medical practitioner and customers, etc.) may also help in deciding whether the books of account and documents should be seized or not.

**2.19.4.** All extracts of documents or any evidence taken should be properly authenticated. Loose papers seized should be serially numbered, arranged in bundles in a folder or stitched securely and sealed. If rubber stamps or other seals are found on the premises, their impressions should be taken on a blank sheet of paper. This paper should also mention the place in the premises where the seals were found and signed by the Authorised Officer, witnesses, and the

person found to be in possession or control of the seals. This will serve the purpose of inventory of the seals found.

## **2.20. Money (Cash - Indian currency) found during the search, its inventorisation and seizure**

**2.20.1.** Indian currency found during the search should be carefully counted. Wherever necessary, a 'note counting machine' can be used. Counterfeit Indian currency detected as a result of the search should be segregated and counted. Information about the same should be passed on to the Control Room. Upon receipt of the information, the officer-in-charge of the Control Room should pass on the same to the conducting unit, who should take appropriate action in accordance with the law and, wherever necessary, send an intimation to other LEAs concerned. In this regard, the chapter on inter-agency sharing of information should be referred to. Inventories of money found during the search should be prepared. Separate inventories should be prepared for the money found and seized, money found but not seized, and the counterfeit Indian currency found, and further action taken in respect of the same. Inventory of money should contain details like the denomination of the notes, the number of notes and their value. All these details should be recorded both in words and figures. If bank stamps are on stapled bundles of notes, these should also be recorded in the inventory. Where bank slips are found, these should be treated as documents.

**2.20.2.** Money found during the search can be seized if it represents undisclosed income or property of any person. While it is not mandatory for the Authorised Officer to conclusively establish the identity of the person to whom the money belongs or make a detailed investigation on any matter regarding its nature and source, especially in situations where conflicting claims are made or evasive replies given, it is necessary that before deciding whether to seize the money or not, the Authorised Officer at least makes a preliminary examination in the matter. There can be no comprehensive and precise guidelines for such an examination, and its nature and extent would vary from case to case. However, some relevant points to be considered are as under:

- (1) The amount of cash found should be compared with the cash balance noted in the Cash Book, if any, maintained by the person. If the Cash Book is not up to date, efforts should be made to quantify the explained cash, as on the date of the search. The same can be quantified with the help of:
  - (a) such receipts, vouchers or other documents found in the course of the search which were otherwise required to be entered in the books of account but have not been so entered or;
  - (b) such other credible evidence as may be found by, or produced before, the Authorised Officer.
- (2) Where it is claimed that the cash found does not belong to the person in whose case the search is being conducted but to any other person, the Authorised Officer should make

reasonable preliminary inquiries. He should also consider the explanation offered by the persons concerned (including in the preliminary statement) or such other evidence as may be found during the search or produced before him. The matter should also be reported to the Control Room.

- (3) Where it is claimed that the cash book or any record relating to the said cash or any transactions relating thereto are maintained in the form of an electronic/digital record, the Authorised Officer should report the matter to the Control Room and request them to provide services of a forensic expert to enable him to access or retrieve the data.
- (4) The issue of cash found and explanation about the source of acquisition, ownership, and accounting of the same should invariably be covered in the statement recorded under section 132(4) of the Act. The explanation provided or absence thereof will help in deciding the cash liable for seizure.

## **2.21. Foreign Currency, Virtual Digital Assets etc. found during the search, their inventorisation and seizure**

**2.21.1.** Foreign currency, cheques, travellers' cheques, etc. found during a search should be carefully counted. Pointed inquiries relating, *inter alia*, to the nature of possession, ownership and source of acquisition should be made from the person in whose possession or control these are found and his statement on oath should also be recorded. Where the said person claims that the foreign currency, traveller's cheques, etc. do not belong to him, but to some other person, reasonable inquiries in the matter should be made. The matter should also be reported to the conducting team/Control Room, and their instructions or advice should be obtained for further action. The Authorized Officers/Conducting Team shall take the following actions:

- A. In usual cases, upon seizing forex and getting its inventory done [denomination, quantum and note numbers], the forex should be converted to INR and be deposited in PD account of the Pr.DIT (Inv.) concerned. Thereafter, information of the same should be shared with the ED. Wherever deemed fit, the copy of relevant seized documents pertaining to the source of such seized foreign currency and copy of statement of the person concerned, may also be shared with the ED.
- B. In some exceptional cases, the seized forex may be kept in original. Some examples of these exceptional cases are wherein apparent violations of criminal laws like Prevention of Corruption Act, 1988, NDPS Act, 1985 etc., are noticed. Inventory of denomination, quantum and note numbers shall also be done in these cases during the course of the search. In such cases information of the foreign currency so seized should be shared with the ED and other LEAs concerned. Wherever deemed fit, the copy of relevant seized documents pertaining to the source of such seized foreign currency and copy of statement of the person concerned, may also be shared with the LEAs concerned.

**2.21.2.** The emergence of Virtual Digital Assets (VDAs), commonly referred to as cryptocurrencies and other blockchain-based assets, has created unique challenges for tax

authorities globally. Unlike traditional financial assets, VDAs do not have a regulatory authority, which complicates their identification, valuation, and taxation. Virtual digital assets (VDAs) refer to digital representations of value that are stored and transacted electronically. These assets include cryptocurrencies like Bitcoin, Ethereum as well as digital tokens issued through blockchain technology. To store and manage cryptocurrencies, users rely on cryptocurrency wallets, which can be digital (software-based) or physical (hardware-based). These wallets store the cryptographic keys needed to access and transfer cryptocurrencies. Wallets may be in different forms such as hot wallets (connected to the internet) and cold wallets (offline storage), each offering varying levels of convenience and security. The identification of Virtual Digital Assets (VDAs) during search and seizure operations requires meticulous planning, technical expertise, and a systematic approach. Cryptocurrencies, unlike physical assets, do not manifest themselves tangibly. They exist in digital forms, stored across various devices or on decentralized networks, and their access is secured with passwords, keys, or seed phrases. The Authorised Officers must be vigilant during search operations to detect crypto currencies and crypto wallets. If any unaccounted VDA is found at the time of search, Control Room should be immediately informed and further directions with regard to seizure of the same should be sought.

**2.21.3. Some of the steps which can be followed for physical search for VDA devices include –**

(a) Identification and seizure of devices like specialized hardware wallets (e.g., ledger, Trezor, etc.) which are designed to store crypto currency securely. These hardware wallets resemble USB devices or smaller devices. Similarly, paper wallets – physical documents containing printing cryptocurrency wallets addresses and private keys – may be present and must be identified.

(b) Looking for recovery phrases, QR codes and Apps, i.e., looking for recovery phrases, typically consisting of 12-24 words, which are essential for regaining access to wallets in case of device loss.

(c) Some individuals may engage in crypto mining. Officers should look for presence of mining rigs, GPU (Graphical Processing Unit) setups (e.g., Vultr), or ASIC (Application-Specific Integrated Circuit) mining machines. Officers should also check for involvement of Non-fungible Token (NFT) transactions, as NFTs represent a form of digital asset often traded using cryptocurrencies. Application like OpenSea, Rarible, Trust Wallet, etc. can be searched for to check any activities related to NFTs.

**2.22. Fixed Deposit Receipts (FDRs) found during the search, their inventorisation and seizure**

**2.22.1.** Where any Fixed Deposit Receipt (FDR) or Term Deposit Receipt, or receipt of a similar nature, whether issued by a bank or any other body or institution, is found in the course of a search, the Authorised Officer should make a preliminary examination to identify the

person(s) in whose names the FDR, Term Deposit Receipts, etc. stand and the person(s) who made investments in the same. Other relevant information should also be gathered.

**2.22.2.** A Fixed Deposit Receipt (FDR) or a receipt of a similar nature found in the search can be seized only if it represents undisclosed income or property of a person. Therefore, before deciding whether to seize the FDR, Term deposit receipt, etc. or not, the Authorised Officer should make at least a preliminary examination of the matter and confront the person in whose case the search is being carried out. He should, for example, ascertain whether the investments made in and the income earned on the FDR, Term Deposit Receipt, etc. have been reported in the income-tax return of the owner/ concerned person/investor; whether the investment made on the FDR, Term Deposit Receipt, etc. is fully explained and whether the same is reflected in the books of account, if any, maintained in the regular course of business or profession or financial activities.

**2.22.3.** Separate inventories should be prepared of the FDRs found but not seized and those found and seized. The inventories should give all relevant details of each FDR like, the name(s) of the holder(s), the date of issue, the date of maturity, the distinctive number of the FDR, the face value of the FDR, the amount payable on maturity, rate of interest and the name and address of the banker, or, as the case may be, the body that issued the FDR.

**2.22.4.** If an FDR or receipt of a similar nature is seized, identification marks should not be placed on the instrument itself, but a piece of paper should be attached to the FDR and identification marks placed thereon. The points made elsewhere in this chapter above on valuation, inventorization and examination for ascertaining the nature of possession and the source of acquisition of jewellery and ornaments will, so far as may be, also apply to FDRs or receipts of a similar nature found as a result of the search. Where it is decided to seize an FDR, an order under section 132 (3) of the Act should also be served on the assessee/person from whose possession and control the FDR was found as well as the Manager of the branch of the bank or, as the case may be, the body or the person that issued the FDR, to guard against any possibility of the issuance of duplicate receipts or operation through net banking/mobile apps. An order issued under section 132(3) of the Act by an Authorised Officer remains in force for a maximum period of sixty days from the date of issue. If the prohibition on the encashment of FDR is required to be continued beyond this period of sixty days, necessary action under section 132(9B) or Section 281B of the Act may be taken, as the case may be.

## **2.23. Seeking assistance of other officers/persons during the search**

**2.23.1.** Section 132 of the Act provides that during a search, the Authorised Officer may requisition the services of any police officer or any officer of the Central Government to assist him with any of the actions required to be performed during the course of such search, and it shall be the duty of such officer to comply. Similarly, there is also a provision in section 132 (9D) of the Act that the Authorised Officer may make a reference to a valuation officer for estimating the fair market value of the property, and such reference can be made during the search or within 60 days from the date of executing the last authorisation for a search.

**2.23.2.** In the recent past, due to the increased use of technology and digitisation in every aspect, including management and maintenance of accounts, digitisation of data, cloud storage etc., the procedure for search and seizure has become complex, requiring the use of data forensics, advanced technologies for decoding data etc., for complete and proper analysis of accounts. Similarly, there is an increasing trend of undisclosed income being held in various forms of assets or investments in addition to immovable property. Valuation of such assets and decryption of information often require specific domain experts like digital forensic professionals, valuers, archive experts etc.

**2.23.3.** W.e.f. from 01.04.2023, section 132(2)(ii) has been introduced to provide that during the course of a search, the Authorised Officer may requisition the services of any other person or entity, as approved by the Principal Chief Commissioner or the Chief Commissioner, the Principal Director General or the Director General, in accordance with the procedure prescribed by the Board in this regard, to assist him for the purposes of the search. Rule 13 and 13A of the IT Rules' 1962 and the guidelines issued by the Board on [04.12.2023 in F. No 286/72/2023-IT\(Inv. II\)](#) may be referred to.

**2.23.4.** Similarly, during search and post-search enquiries, the Authorised Officer may make reference to any person or entity or any valuer registered by or under any law for the time being in force, who shall estimate the fair market value of the property in the manner prescribed and submit a report of the estimate to the Authorised Officer or the Assessing Officer within sixty days from the receipt of such reference.

## **2.24. Valuation of Jewellery & Seizure**

**2.24.1.** If any jewellery is found during the search, the Authorised Officer should contact the Control Room to send an approved valuer for valuation. Similarly, the services of an approved valuer should be requisitioned for valuing the antiques, artefacts or paintings, if the Authorised Officer believes that these assets have a high value.

**2.24.2.** It is necessary to record the place (and whose possession and control) from where the jewellery was found, as this fact could be relevant for establishing its ownership and other related issues. This exercise should be carried out in the presence of the person(s), in whose possession or control the jewellery items were found, witnesses and the Authorised Officer. If the assessee or the person found to be in possession or control of jewellery or any other person on his behalf produces any report of its valuation, the same should not be shown to the approved valuer. If, for some reason, it becomes necessary to show the same to him, this should be done only after he has completed the valuation. One such scenario may be where the value determined by assessee's valuer, as shown in the Valuation Report filed or produced by him or any other concerned person, is substantially higher than that determined by the approved valuer hired/nominated by the Investigation Wing/Authorised Officer. This should minimise the possibility of any bias on the part of the approved valuer in preparing inventory and valuation.

**2.24.3.** Where it is claimed that any item of the jewellery found does not belong to the person in whose case the search is being conducted or to the person found to be in possession or control

of the same but to some other person, the Authorised Officer should make suitable preliminary inquiries in the matter. Such a situation can be tackled suitably if a proper preliminary statement was recorded before the start of the search, as discussed earlier. The Authorised Officer should also consider the explanation offered by the person(s) concerned or other evidence found in the course of the search or produced before him. He should report the matter to the conducting team/Control Room for necessary action.

**2.24.4.** Any jewellery or ornament found during the search can be seized if it represents undisclosed income or property of any person. While it is not mandatory for the Authorised Officer to conclusively establish the identity of the person to whom the jewellery or ornaments belong or who made investments for their acquisition or make a detailed investigation on any matter relating to the source of investment or nature of possession, especially in situations where conflicting claims are made or evasive replies given to him, it is necessary that before deciding whether to seize the jewellery or ornaments or not, he at least makes a preliminary examination in the matter. He should, for example, try to find out the nature of possession and the source of acquisition of the jewellery and ornaments, ascertain whether the investments made in the same have been reported in the income tax return of the owner/concerned person/investor or declared under any scheme of voluntary disclosure of income, whether the investments made are explained, whether the same are reflected in the books of account if any maintained in the regular course of business or profession or financial activities and whether the same has been declared in the wealth-tax returns, if any filed. In case some or all items of jewellery are not found accounted or no valuation report or purchase bills are provided, the Authorised Officer may, depending on the facts and circumstance of the case, record the statement of the persons from whose possession the jewellery was found and obtain a response of the concerned persons about the source of acquisition of each or major items of jewellery. It is advisable to ensure that bills that are produced in support of the jewellery found during the search proceedings are fully substantiated with the payments made from the disclosed bank accounts and explained sources. The Board's guidelines issued vide Instruction No. 1916 dated 11.05.1994 regarding the seizure of jewellery should also be adhered to.

**2.24.5.** In all cases, detailed inventories of the jewellery and ornaments found in the course of the search must be prepared as per above referred guidelines. It would be advisable to prepare separate inventories for jewellery (a) found and seized; (b) found but not seized; (c) jewellery found on the person of an individual and seized, and (d) jewellery found on the person of an individual but not seized.

**2.24.6.** The inventories should give a full description of each item of jewellery indicating, *inter alia*, its gross and net weights (including gold equivalent weight), basis of valuation, value and the place and the circumstances in which it was found.

**2.24.7.** The procedure for the seizure of bullion, jewellery and other valuable article or thing, as given in sub-rule (10) of rule 112 of the Rules should also be adhered to.

## **2.25. Bullion found during the search**

**2.25.1.** If any gold, bullion or silver is found during a search, the Authorised Officer should contact the Control Room to send an approved valuer for its valuation. It is necessary to record the place from where the bullion was found as this fact could be relevant for establishing its ownership and other related issues. Separate inventories should be prepared of the items found and seized and those found but not seized.

**2.25.2.** Where bullion with foreign markings is found, the Authorised Officer should immediately report the matter to the conducting unit/Control Room, who should take appropriate action in accordance with the law and, wherever necessary, send an intimation to other LEAs concerned. Chapter 9, dealing with exchanging information with other agencies and authorities may be referred to for further details.

**2.25.3.** The points made elsewhere in this chapter on valuation, inventorization and examination for ascertaining the nature of possession and the source of acquisition of jewellery and ornaments will, so far as may be, also apply to bullion found as a result of the search. The procedure for the seizure of bullion, jewellery, or other valuable article or thing, as given in sub-rule (10) of 112, should be followed.

**2.25.4.** With regard to the bullion found during the search, the person from whose possession or control the bullion is found, should be asked to explain the source of acquisition of the same, including from where, when and how the bullion has been acquired. Any explanation offered which appears to be abnormal should be examined properly. Care should be taken to verify the identification number on the bullion (including bullion with foreign markings) after making comparison with the actual bills and also ensure that the number/markings is not erased.

## **2.26. Stock-in-trade of the business found during search and its inventorisation**

**2.26.1.** The stock-in-trade of the business found during the search should be carefully quantified, valued and inventorised. This exercise should be undertaken in a systematic manner and in the presence of the person in whose case the search is being conducted or the person who is found to be in possession or control of the stock. Wherever necessary, the Control Room's assistance should be sought for the quantification and valuation of the stock or any related matter. Such assistance would, for example be needed in a case where bullion, jewellery or other valuable article or thing, found as a result of a search is stock-in-trade of the business and services of an approved valuer would be required for their valuation.

**2.26.2.** The Authorised Officer should take all precautions regarding the valuation methodology adopted by the valuer for the stock valuation of the business. Statement of the owner should be taken about the valuation methodology adopted by him and when was the physical stock last taken, the last stock-taking records and valuation thereof should be obtained. The methodology to be adopted by the valuer should also be confirmed from the owner, and objections, if any, should be addressed and brought on record to minimize the scope of dispute at a later stage. As far as possible, efforts should be made to get valuation experts from

recognised government institutions or registered valuers/surveyors. For example, the valuation of products in a large steel mill can be done by valuation experts from SAIL.

**2.26.3.** The person(s) whose premises are being searched and the person found to be in possession or control of the stock should be given an opportunity to explain the discrepancy in stock found, its quantity and value compared with the stock as per books of account. Specific queries in this regard should also be made while recording their statements under section 132(4) of the Act. Where the person maintains a stock register, the stock found should be compared with the entries made in the register. Purchase and sale vouchers and other documents should also be examined wherever necessary. Depending upon the facts and circumstances of the case, a suitable methodology for the verification of stock should be adopted. If the person(s) concerned raise any objection on the methodology or the computation for stock quantification, the same should be carefully considered, disposed of and clearly recorded in a note, which should be appended to the inventory. This would eliminate the possibility of the person(s) concerned claiming in the assessment or appeal or any other post-search proceedings that the methodology or the computation made by the Authorised Officer was erroneous and that during the search, they were not given any opportunity to object to the same. If no such objection is made, the fact should also be recorded in a note, which should also be signed by the person concerned and the witnesses. The said fact should also be brought in the statement u/s 132(4) of the Act. The chances of disputes related to stock-taking and valuation will be substantially reduced by taking the abovementioned precautions.

**2.26.4.** With effect from 01.06.2003, any bullion, jewellery or other valuable article or thing, found as a result of a search, which is the stock-in-trade of the business, cannot be seized. It can also not be subjected to deemed seizure under the second proviso to section 132 (1) of the Act. The Authorised Officer is, however, entitled to make a note or inventory of such stock in-trade of the business. The benefit of such a provision can only be given to stock-in-trade, and the Authorised Officer should satisfy himself that any excess stock found is, in fact, stock-in-trade.

**2.27. Lavish fittings, decoration item and furnishing, etc. found during the search and their inventorisation**

**2.27.1.** Where during the search, the Authorised Officer comes across any lavish fittings, decoration items, furnishings etc., he should inspect them and make suitable preliminary inquiries to find out about their ownership, cost/value and the date and source of acquisition. If he has reasons to suspect that these represent expenses/investments incurred out of the undisclosed income of any person, he should prepare an inventory of all such items. The inventory should give details like, the description/name of the article, number or other details, if any, appearing on the article and its value and the basis of valuation. Wherever necessary, these fittings, furnishings, etc. should also be photographed. The Authorised Officer may also get them valued by a valuer.

**2.27.2.** In the case of paintings and costly sculptures, the matter should be discussed with the conducting unit, and necessary action for the valuation of paintings/sculptures should be taken if considered appropriate.

**2.28. Plant and machinery and other movable properties found during the search and their inventorisation**

**2.28.1.** Where costly plant and machinery or other movable properties are found during a search, and there are reasons to suspect that these have either been under-valued/over-valued or represent expenses/investments made out of the undisclosed income of any person, suitable steps for their inventorisation and valuation should be taken. The other points made in this chapter regarding lavish fittings, furnishings, etc. will, so far as may be, also apply here.

**2.29. Documents and other things attempted to be thrown out or, destroyed or removed by the occupant of the premises**

**2.29.1.** There can be a situation where, before the commencement of the search or during the search, an occupant of the premises throws out or attempts to throw out any books of accounts or documents or money, bullion, jewellery or any other valuable article or thing or key(s) to avoid its detection by the search team. The team leader should take all precautions to foil any such attempt. The person(s) responsible for the incident should be asked to explain the reason for such a behaviour and his/their statement(s) on oath should be recorded. Such persons can also be prosecuted for an offence under Section 241 of Bharatiya Nyaya Sanhitha, 2023 (Section 204 of the Indian Penal Code) for destruction of document to prevent its production as evidence. The things which were attempted to be thrown out or were actually thrown out and subsequently recovered by the search team should form a part of a separate inventory. Such an event should be reported to the Control Room at the earliest, usually within one hour of the occurrence.

**2.29.2.** Where a person runs away with any books of account or other documents or any other thing, the Authorised Officer should make all attempts to catch hold of such a person and retrieve the evidence. A complaint to the police should be lodged for recovery of the property and documents that were taken away and for such other actions as may be considered necessary in accordance with the law.

**2.29.3.** Where any person in possession of books of account or documents or money, bullion, jewellery or other valuable article or things offers any resistance in handing over the same to the Authorised Officer, he can, if necessary, seek the assistance of the available police officers or Central Government officers. Such an act also makes that person liable for prosecution under Section 218 of Bharatiya Nyaya Sanhitha, 2023 (Section 183 of the Indian Penal Code)

**2.29.4.** All such incidents should be usually reported to the Control Room at the earliest. Wherever necessary, the Authorised Officer should seek, through the Control Room, assistance or guidance of the conducting unit and a running panchnama should be prepared on such incidents. This should be signed by the witnesses to the search, the Authorised Officer and,

wherever possible, the person(s) involved in the incident. In appropriate cases, the Authorised Officer should file an FIR with the police station having jurisdiction over the place of the incident under Sections 204, 206, 219, 219, 220, 221 read with Section 61 of Bharatiya Nyaya Sanhitha, 2023 (Sections 172, 174, 186, 187, and 188, read with 120B of the Indian Penal Code) for indulging in a criminal conspiracy to obstruct public servants to discharge public function, causing disappearance and destruction of evidence. It should be monitored by the concerned Addl. DIT (Inv.) that the FIR is registered in such appropriate cases(s)

### **2.30. Restraint u/s 132 (3) of the Act**

**2.30.1.** The Authorised Officer has the power to issue an order under section 132 (3) of the Act where it is not practicable to seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing found during search. This power can be invoked for the reasons other than those mentioned in the second proviso to section 132(1) of the Act. This is not deemed to be a seizure. Contravention of an order under section 132(3) entails prosecution under section 275A of the Act.

**2.30.2.** An order under section 132(3) of the Act can be issued only in respect of such books of account, other documents, money bullion, jewellery or other valuable article or thing as fall within the ambit of section 132 (1) of the Act. It, therefore, follows that an asset, which does not represent any undisclosed income or property of a person can neither be seized nor subjected to an order under section 132(3) of the Act.

**2.30.3.** An order issued under section 132(3) of the Act by an Authorised Officer will remain in force for a maximum period of sixty days from the date of issue.

**2.30.4.** Some situations in which an order under section 132(3) of the Act can be issued are as under:

- (1) Where a warrant of authorisation for the search of a bank locker has been obtained following its detection during a search, but it is not possible to search the locker immediately. In such a situation, an order under section 132(3) of the Act should be issued and served on the Bank Manager, and the hirer of the bank locker and the locker itself should be sealed. End to end sealing should be properly done to avoid any item/paper getting slipped inside the locker. The key of the locker found must be kept in an envelope and seized after taking signature of the assessee, witnesses and the Authorised Officer.
- (2) Where a search remained inconclusive on the day of its initiation and its further continuation is required to be postponed for a subsequent day on account of some valid reason.
- (3) Where verification and valuation of stock could not be completed and is required to be postponed for a subsequent day on account of some valid reason.

- (4) Where it is not practicable to seize any books of account or other documents or assets because some special arrangements are required to be made for carrying or storing it.
- (5) Where any Fixed Deposit Receipt or, a Term deposit Receipt, or any other valuable article or a thing of a similar nature is found and seized, it is also advisable to issue an order under section 132 (3) of the Act and serve the same on the assessee/person in whose possession and control, the FDRs were found and the Manager of the branch of the bank or, as the case may be, the body or the person that issued the FDR or receipt of a similar nature to guard against any possibility of the issuance of duplicate receipts. A discussion regarding the continuation of restraint on such FDRs/TDRs has been made earlier in Para 2.22 of this Chapter.

**2.30.5.** Wherever the facts of the case so warrant, the powers of provisional attachment available u/s 132 (9B) of the Act may also be resorted to in respect of such money.

### **2.31. Deemed Seizure**

**2.31.1.** The second proviso to sub-section (1) of section 132 of the Act provides for deemed seizure. This applies to a situation where a valuable article or thing is found as a result of search;

- (i) the said valuable article or thing falls within the ambit of clause(c) of sub-section (1) of section 132 of the Act, that is, it represents either wholly or partly undisclosed income or property and,
- (ii) the said valuable article or thing is liable to be seized but it is not possible or practicable to get physical possession of the same and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature.

**2.31.2.** In such a case, the Authorised Officer has the authority to serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with his previous permission. Such action of the Authorised Officer is deemed to be seizure of such valuable article or thing. With effect from 01.06.2003, stock-in-trade of business cannot be subjected to deemed seizure. Contravention of an order under second proviso to section 132(1) of the Act entails prosecution under section 275A of the Act.

**2.31.3.** It is significant to mention that deemed seizure is different from restraint or prohibitory order under section 132 (3) of the Act. The basis and the conditions governing the two are different. Also, a restraint order under section 132 (3) of the Act is not a seizure.

## **2.32. Recording of Statement u/s 132 (4) of the Act**

**2.32.1.** The oath should be administered before commencing the statement u/s 132(4) of the Act. An Authorised Officer should record the statement. The time and date of commencement of the examination should be noted at the start of the statement. In case, the examination of the deponent gets prolonged, and the deponent needs a break, the statement may be temporarily adjourned, and this fact should also be documented in the statement along with the time at which the statement was temporarily halted. The date and time of the re-commencement of the examination should also be recorded in the statement. It should be ensured that whenever the assessee is given rest for purpose of sleep/medicine/food or to attend to natural calls, the same should be mentioned in the statement and the signature of the assessee and witnesses before and after the break should be obtained. The signature of the assessee should be obtained on each page as and when the said page is completed and it should never be left to the time of closure of the statement. Such actions would mitigate the situation where the assessee turns hostile and refuses to sign when confronted with incriminating documents/evidences later during the course of the statement.

**2.32.2.** The Authorised Officer should not ask the person making the statement to admit, or disclose or surrender any undisclosed or unreported income or exert any pressure or undue influence on him to do so. However, if the person making the statement voluntarily discloses any undisclosed income, financial transactions, etc., the Authorised Officer should record what the deponent says. In case the deponent admits any undisclosed income or unreported financial transactions, the Authorised Officer should ask him to give all the relevant details, including the manner in which such undisclosed income was derived and the year to which it pertains. He should also make suitable efforts to gather supporting evidence in this regard. Admission of undisclosed income, if any, by a person should invariably be based upon material/ cogent documents, assets seized and/or found or, statements of connected persons, results of enquiries, or any other discrepancy noticed during the search. The focus of the search team should be on the collection of evidence regarding undisclosed income and transactions. The Authorised Officer should be extra careful in case the searched person admits some income merely on the basis of their exclusive knowledge, for which no corroborative material is presented by them. These would later turn out to be admissions prone to ready retraction. In this context, Board's letters **dated 09.01.2014 and 18.12.2014 vide F. No. 286/98/2013-IT (Inv. II) and dated 10.03.2003 vide F. No. 286/2/2003-IT (Inv. II)** may also be referred to.

**2.32.3.** Section 132 (4) of the Act empowers the Authorised Officer to examine on oath, during the search and seizure operation, any person found to be in possession or control of any books of account, other documents, money, bullion, jewellery or other valuable article or thing. Such examination may not be limited to the contents of the books of account, other documents, or the nature of assets found during the search. It can extend to all matters relevant to investigation connected with any proceeding under the Act. A statement made by such person during such examination may also be used in evidence in proceedings under the Act. In this regard, the Explanation to Section 132(4) of the Act may be kept in mind. The statement also gives the

person searched an opportunity to offer their explanation on the books of account, documents, evidence and assets found as a result of the search.

**2.32.4.** The Authorised Officer has the power to record statements both under section 131(1A) of the Act and under section 132(4) of the Act. While the Authorised Officer can record a statement under section 131(1A) before commencement of the physical search, he can record a statement under section 132(4) of the Act only during the course of the search.

**2.32.5.** A statement under section 132 (4) of the Act is a statement on oath. It is not only for fact-finding but also for further investigation to find out the undisclosed income, investments, etc. of the person making the statement or any person connected with him. Only an Authorised Officer is competent to record a statement under section 132(4) of the Act. Before recording a statement, the Authorised Officer should administer an oath to the person making the statement or bind him by an affirmation. It is up to the person whether he binds himself by an oath or affirmation to state the truth. Refusal to do so invites punishment under Section 211 of Bharatiya Nyaya Sanhitha, 2023 (Section 178 of the Indian Penal Code). Such a refusal may also enable the department to draw an adverse inference against the person. Refusal to take an oath should be separately recorded in a running panchnama, and signatures of the witnesses and the Authorised Officer should be obtained on the same.

**2.32.6.** Recording a statement without administering an oath may not get the approval of Courts in prosecution proceedings. The Authorised Officer should, before recording the statement, also inform the person that he is bound to state the truth and the consequences of making a false statement including a prosecution, and this should be recorded in the statement.

**2.32.7.** The statement should start with the particulars for uniquely identifying the person making the statement. These would include information like, his/her name, his/her father's name, age, nationality and local and permanent addresses. Tax-related information like, whether the person is assessed to tax and if so, his Permanent Account Number and the assessment unit/Range and the charge where he is assessed to tax should also be ascertained and recorded. It may also be useful to record information about his relationship with the person in whose case the search is being conducted.

**2.32.8.** While there can be no comprehensive guidelines for the types of questions that may be asked while recording a statement under section 132(4) of the Act, specific queries about the following areas could be useful:

- (1) Questions on the points discussed regarding the recording of the initial/preliminary statement under section 131(1A) of the Act] may be asked, if not already raised and answered, while recording the initial statement.
- (2) In case there is any significant mismatch or variation between the preliminary statement of a person and the information or evidence gathered as a result of the search, the person should be confronted with the same and his response recorded.

- (3) Where any money or bullion or jewellery or ornaments or any other valuable article or thing is found as a result of the search, specific and pointed queries should be made from the person making the statement on matters like, its ownership, date and manner of acquisition, amount of investment and the nature of possession and the source of acquisition. He may also be asked whether he has documentary evidence to substantiate his claim.
- (4) In suitable cases, the person making the statement may also be asked to explain the nature of the documents and books of account, including those maintained in digital form, found as a result of the search and the entries made therein. Specific queries may be made if it is found that any such books of account or other documents point to any undisclosed income or unexplained transaction of any person. Wherever necessary, the relevant books of account or documents may be shown to the person while recording his statement and queries raised. Documents shown to the person when recording his statement should be appropriately identified (for example, page number, bundle number and from where seized), and the fact of identification mentioned in the statement.
- (5) Where foreign currency, traveller's cheques, etc. in foreign currency or counterfeit Indian currency are found, the mode and nature of their possession and source of acquisition should be investigated.
- (6) In suitable cases, specific queries on the stock-in-trade found as a result of the search, its quantity, value and entries relating thereto recorded in the books of account should be made. Where the quantity of stock found as a result of the search or its value does not match with the entries in the books of account or other relevant documents, the person making the statement should be confronted with the same and queries in this regard made.
- (7) During the course of the search, the following situations may be encountered:
  - (i) the information or evidence gathered as a result of search, points to any undisclosed income or asset or transaction of a person, other than the person in whose case the search is being conducted, or
  - (ii) any claim to this effect is made by such person, or
  - (iii) The person making the statement refers to any transaction with, or anything said to have been done or stated or written by, any other person.

In situations mentioned-above, queries should be made to elicit all the relevant information for establishing the identity and address of such other person, details of the transactions etc. This information should be passed on to the conducting unit/Control Room. On receipt of any such information, the conducting unit should decide about further action, if any, required to be taken (e.g. examination of such another person before he could be contacted by the first person).

**2.32.9.** Some points that should be kept in view while recording a person's statement are as under:

- (1) Examination under section 132(4) of the Act should be made only by the Authorised Officer. The statement should, as far as possible, be in question-answer form. Care should be taken to record on a paper of a reasonably good quality and thickness.
- (2) The persons whose statements are to be recorded should not be allowed to brief one another or to compare notes.
- (3) When a person declines to answer any question on the grounds of ill health, nervousness, shock, fatigue, or mental tension, he should be given some time to rest before resuming questioning. The facts may be appropriately recorded in the statement as well. If need be, a medical practitioner may be called for examination. Such an event may be appropriately documented vide a running panchnama. Also, all certificates issued by the medical practitioner should be part of the running panchnama.
- (4) As far as possible the statement of a person should be taken and recorded in the language that he understands, and the exact words used by him should be recorded.
- (5) Queries should be raised in a clear, specific and unambiguous manner so that there is absolutely no room for doubt. This would also eliminate the possibility of the person successfully claiming in any post-search proceedings, including appeals against the assessment that he did not understand the question properly.
- (6) No police officer should be allowed to remain in the room where any person is being examined under section 132(4) of the Act. This is to ensure that the person making the statement does not subsequently take a plea that his statement was recorded under coercion or pressure or any undue influence.
- (7) Refusal to answer a question constitutes an offence punishable under Section 214 of Bharatiya Nyaya Sanhita, 2023 (Section 179 of the IPC). If a person refuses to answer a question, he may be informed about its consequences. If he still does not answer, the fact should be clearly recorded in the statement.

**2.32.10.** Each page of the statement should be signed at the bottom by the deponent, the Authorised Officer and the witnesses. If the deponent is illiterate, his left-hand thumb impression should be obtained. In certain situations, it may be advisable to obtain the left-hand thumb impression of a literate person also. For example, a person with injured hands or a semi-literate person whose two signatures, obtained at two different points of time are likely to vary or where it is suspected that the deponent, though literate is deliberately trying to put signature, which is different from his usual signature, in addition to his signature. In obtaining thumb impression, care should be taken to use good quality stamp pad and to apply ink evenly so that the impression is clear and shows the ridges prominently and there is no difficulty in reading the impression by a fingerprint expert. The last page of the statement should contain an endorsement, in his own writing as far as possible, that the deponent has read and understood the statement and that the statement was given without any coercion or undue influence. The name of the person whose thumb impression has been obtained should be legibly written just

below the impression. The statement should be read out to the deponent. If the statement has been recorded in a language which he does not understand or where the person making the statement is illiterate, it should be read over and explained to him in the language he understands. An acknowledgement to this effect should also be recorded.

**2.32.11.** Where a person, after giving the statement, refuses to sign it, the Authorised Officer should record this fact in the statement and obtain the signatures of the witnesses. Refusal to sign the statement is an offence punishable under Section 215 of Bharatiya Nyaya Sanhita, 2023 (180 of the IPC). Penalty under section 272A(1)(d) of the Act can also be levied. It should be ensured that a completed page of the statement is signed by the person, the Authorised Officer and witnesses before moving to the next page.

**2.32.12.** It may be noted that although the right of the person searched also includes right to have a copy of any statement before it is used against him in assessment or prosecution proceedings, it is not necessary that the same be given on the spot. The Conducting Unit/Assessing Officer may take a decision regarding the matter in light of the facts and circumstances, stage of the investigation and assessment proceedings.

**2.32.13.** As far as possible, before the conclusion of the search, the Authorized Officer should ensure that all the seized evidence is confronted in the statement(s) recorded on premises.

### **2.33. Statements recorded in the Survey premises linked with the Search and Seizure operation**

As per the provisions of section 133A of the Act, the statements are to be recorded under section 133A(3)(iii) of the Act. The Income-tax authority can exercise the powers under section 131(1) of the Act only if the conditions under section 133A(6) of the Act are satisfied. Thus, section 131(1) may not be used routinely during a survey action and statements should preferably be recorded under section 133A(3)(iii) of the Act. In case the powers under section 131(1) of the Act are required to be invoked, the circumstances necessitating the same may be duly recorded.

### **2.34. Statutory Procedure for seizure of bullion, jewellery or other valuable article or thing**

**2.34.1.** The procedure for seizure of bullion, jewellery or other valuable article or thing has been given in Rule 112 (10) of the Income-tax Rules, 1962. The Authorised Officer should ensure strict compliance with the said rule. Some steps that the Authorised Officer should take in this regard, are briefly given below:

- (1) The bullion, jewellery and other valuable article and thing found and seized during the course of the search should be carefully and securely placed in packages.
- (2) As already mentioned, detailed inventories of the bullion, jewellery, and other article or thing should be prepared.

- (3) The contents of each of the packages should be clearly and carefully recorded and suitable cross-references to the inventories of the seized assets, etc. given.
- (4) All the said packages should be serially numbered.
- (5) Each such package should bear an identification mark and the seal of the Authorised Officer or any other Income-tax authority, not below the rank of an Income Tax Officer. The occupant of the building, place, vessel, vehicle or aircraft, including the person in-charge of such vessel, vehicle or aircraft searched or any other person on his behalf should also be permitted to place his seal on the packages. Imprint of both the AO's seal and the occupant's seal, if any, should be taken on the panchnama recorded on premise.
- (6) Signatures of the Authorised Officer, witnesses to the search and the person(s) whose premises, vessel, vehicle, etc. is being searched or who is/are found to be in control of the same should also be obtained on each of the said packages and the list thereof.
- (7) The valuation report of jewellery and bullion should clearly mention owner of the same and the specific location like room, cupboard, locker etc. where they were found. The amount of jewellery and bullion seized as well as released should be clearly specified. Name and signatures of the person receiving back the jewellery and bullion not seized should be taken on the valuation report as well as the panchnama.

**2.34.2.** A copy of the list prepared should be delivered to the person in whose case the search was conducted or the occupant of the premises, vessel, etc.

**2.35. Prohibition on collecting Taxes, etc. in any form during course of search u/s 132 of the Act**

No Income-tax authority shall collect amount of tax, interest, penalty etc. of any nature in any manner, including cheque under any circumstance during search, and they will restrict themselves only to the actions permitted under law.

**2.36. Prohibition on enquiry in respect of document/evidence relating to Income Declaration Scheme (IDS), 2016**

2.36.1 Wherever during search/requisition/linked survey, any document is found as a proof for having filed a declaration under IDS 2016, including acknowledgement issued by the Income Tax Department for having filed a declaration, no enquiry would be made in respect of sources of undisclosed income or investment in movable or immovable declared in a valid declaration in accordance with the provisions of the Scheme.

2.36.2 However, if the assessee claims that the asset found during the search/requisition/linked survey had already been disclosed in IDS, 2016, in that situation, the assessee is required to substantiate his claim by matching the asset disclosed in IDS vis-à-vis the asset found during the search/requisition/linked survey. It is advisable that itemwise matching should be done to ascertain the veracity of the claim. The assessee can claim immunity from inquiry into the

source of the asset found, only if it is demonstrated by him that the asset found was disclosed in IDS. The Authorized Officer should verify the claims of the assessee with the forms 1,2,3 & 4, as applicable, mandated under the Income declaration Scheme Rules, 2016.

### **2.37. Handling of Seized Material**

**2.37.1.** The Authorised Officer should ensure that a proper inventory of the seized material is made. Such material should be duly sealed, and signatures of witnesses and the assessee, apart from the Authorised Officer, should be obtained on the seized material and the Annexures containing such material. For handling of digital/electronic data evidence, reference may be made to Digital Evidence Investigation Manual, 2014, which inter-alia includes detailed guidelines regarding processing of digital evidence, Chain of Custody, certification under relevant statutes, forensic tools used for forensic processing, etc.

**2.37.2.** The evidence seized in the form of a paper by the way of preparation of bunches should be made light, easy to handle and have inter-relations to other pages of the same bunch, as far as possible. The post-search enquiries made by the way of correlating and scrutinizing the evidence and the facts should be smoothened through this approach. Preferably, a bunch of seized documents should be prepared room-wise.

**2.37.3.** The indexation (usually the cover page) of a particular bunch of paper seized as evidence(s) should be done to convey a very clear picture of the nature and condition of the evidence seized. This will help the conducting ADIT/ DDIT (Inv.) immensely during post-search enquiries and will keep the transparency and sanctity of seized paper bunches. Additionally, while handing over the seized material(s) to the Assessing Officer for assessment proceedings, minimal problems will be faced in preparing the handover note.

**2.37.4.** The search team should take proper care in numbering all the written/blank/torn pages properly so as to avoid any unintentional consequences at a later stage.

**2.37.5.** A signed photocopy of the documents written in pencil should be seized along with the original, and facts should be recorded. Such incriminating documents must be confronted in the statement(s) of relevant persons.

### **2.38. Recording of Panchnama**

**2.38.1.** The panchnama is a document containing a record of all significant events during the search. This is of considerable evidentiary value and should be prepared carefully and cautiously. The panchnama should mention all significant events (including obstruction in the process of search, if any) in the search in the same sequence in which they occurred. Even where nothing is found or seized during a search, a panchnama should be prepared in the usual manner.

**2.38.2.** When the search is resumed on a later date, the panchnama of the later date should refer to the immediately preceding panchnama and also to the fact that all the seals placed at the premises/place at the time of issuance of the prohibitory order under section 132(3) of the Act

were inspected by the Authorised officer, the person in charge of the premises and witnesses and the seals were found to be intact.

**2.38.3.** Apart from the importance of preparation of panchnama as mentioned above, the Authorised Officer(s) should be aware of exceptional findings and events of the search premises which need immediate attention for the safe upkeep of significant pieces of evidence/ alienation of evidences of the search to office premises and communication of any vital information of an event. Running panchnama(s) should be prepared for those exceptional situations (s) as warranted and felt by the Authorised Officer(s), mentioning the reasons for its preparation. The drawing of regular panchnama (during the conclusion of search) as mentioned in above should contain this fact that a running panchnama has been drawn during the search.

**2.38.4.** Running panchnama is generally attached as an annexure to the panchnama, which is filled in a prescribed format. The running panchnama highlights various events that require mention in the panchnama, it is also signed by the witnesses, person in charge of the searched premises, and the Authorised Officer. The situations in which a separate record of the events or proceedings is drawn include the following:

- (1) the event of breaking open the premises or almirahs/locks/safes etc., during the search action.
- (2) the event of any medical issue arising in case of assessee/his family members or any other person present at the premises.
- (3) the event of seizure and removal of any documents, cash, bullion, jewellery, etc. to a safe place in exceptional circumstances.
- (4) the event of a change of witnesses and the event of any other extraordinary/untoward incident during the course of the search that the Authorised Officer feels requires special mention and should be made part of the panchnama.
- (5) the event of the presence of officers from another LEA or any other action taken by the LEA during the course of the search at the premises.
- (6) Untoward incidents/ damage to property/ injury or attack on the search team etc.

**2.38.5.** The panchnama should give various details like, the name(s) of the person(s) in respect of whom the warrant of authorisation was issued, names and designations of the Authorised Officers and other officials who assisted the Authorised Officers, names and addresses of the witnesses to the search, date(s) and time of the commencement and conclusion/temporary conclusion of the search, references to the orders under section 132(3) and the second proviso to section 132(1) of the Act issued and served on the persons concerned, names of the persons who were examined on oath or solemn affirmation, list of the books of account, other documents, money, bullion, jewellery and other valuable article or thing found but not seized and those found and seized.

**2.38.6.** The following should also be appended to the panchnama and made a part thereof :

- (1) List/Inventory of all books of account and documents found and seized.
- (2) List/Inventory of all books of account and documents found but not seized. Identification marks may be placed on original books of account and documents, which are not required to be seized but may be required to be produced in post-search proceedings. If any such identification marks are made, it may be mentioned in such inventory/list attached with the panchnama..
- (3) Lists/Inventories of bullion, jewellery, ornaments, and gold and silver articles, etc. found and seized.
- (4) Lists/Inventories of bullion, jewellery, ornaments and gold and silver articles, etc. found but not seized.
- (5) Lists/Inventories of other valuable article or thing found and seized.
- (6) Lists/Inventories of other valuable article or thing found but not seized.
- (7) Lists/Inventories of cash found, with break-up of cash seized and cash not seized.
- (8) Lists/inventories of counterfeit Indian currency found.
- (9) Lists/inventories of digital devices found and seized.
- (10) List/inventory of rubber and other seals found (in the form of their impressions taken on a blank sheet of paper), indicating the seal(s) that were seized and those not seized.
- (11) List of key(s) found, indicating the key(s) that were seized and those not seized.
- (12) Lists of persons who were examined under sections 131(1A) and 132(4) of the Act.
- (13) List of orders under section 132(3) and the second proviso to section 132(1) of the Act issued, clearly indicating the date of issuance of the order, the person on whom the order was served and the date and time of service.
- (14) In case, a personal search was taken of any person under section 132(1)(ii)(a) of the Act,
  - (i) inventory or the list of all the things found but not seized; and
  - (ii) inventory or the list of all the things found and seized.
- (15) Notes/running panchnama, if any recorded on all important events/facts referred to in the panchnama..
- (16) List of bank passbooks and cheque books found but not seized during search.

(17) List of Locker keys found and seized.

**2.38.7.** Panchnama should be signed by the following:

- (1) Authorised Officer
- (2) The person in whose case the search was conducted
- (3) The person in-charge, or in control, of the building, place, vessel, vehicle or aircraft searched, where such person is different from the one referred to at S.No.(2) above. However, where the person referred to at S.No. (2) above is not available at the premises, signatures of the person referred to at S.No. (3) will be sufficient.
- (4) Witnesses to the search

**2.38.8.** One copy of the panchnama (along with its annexures) should be provided to the person referred to at (2) above, or where he is not present in the premises searched, to the person referred to at S.No. (3) above. This should be done on the conclusion or as the case may be, a temporary conclusion of the search, and same should be recorded in the office copy of panchnama and the signature of the person concerned affirming receipt of the panchnama, along with its annexures, should be obtained. One copy of the panchnama (along with its annexures) should be forwarded to the Central charge , along with the seized material.

**2.38.9.** All the inventories and lists referred to in the preceding paragraphs should be prepared in triplicate. All the copies of inventories, lists, etc. should be signed by the following:

- (1) Authorised Officer
- (2) The person in whose case the search was conducted
- (3) The person in-charge, or in control, of the building, place, vessel, vehicle or aircraft searched, where such person is different from the one referred to at S. No. (2) above. However, where the person referred to at S. No. (2) above is not available at the premises, signatures of the person referred to at S. No. (3) will be sufficient
- (4) Witnesses to the search

**2.38.10.** One copy of the inventory and the list should be provided to the person referred to at (2) above, or where he is not present in the premises searched, to the person referred to at S. No. (3) above. These are generally given to the aforesaid persons, along with the panchnama. This should be done on the conclusion or as the case may be, a temporary conclusion of the search.

**2.38.11.** In case of panchnama due care must be taken that all the signatures are taken properly.

## **2.39. Temporary conclusion of search for continuation on a subsequent date**

**2.39.1.** As far as possible, search of premises, once started, should continue till it is concluded. However, where because of any unavoidable and compelling reason, it is not possible to do so, and it is considered necessary, in consultation with the Control Room, to temporarily conclude[ only in rare cases considering the balance of convenience between giving rest to the stakeholders involved, and avoidable delay in the search operation] the search for the day and continue the same on a subsequent day, the Authorised Officer should take the following steps:

- (1) The premises should be properly sealed in the presence of at least two witnesses and placed under armed police guards. In a case where only a part of the premises could not be searched, the decision whether to seal the entire premises or only that portion which is yet to be searched should be taken, after carefully considering all the relevant factors, if possible, in consultation with the Control Room. As far as possible only that portion of the premises should be sealed, which is yet to be searched so that minimum inconvenience is caused to its occupants.
- (2) The Authorised Officer should issue an order under section 132(3) of the Act and serve the same on the person-in-charge of the premises or, as the case may be, of that part of the premises which has been sealed, and also give a copy of the same to the local SHO. Where the premises sealed is one where search could not commence because it was found to be locked, without any occupant, the procedure explained at paragraphs (2.9) and (2.10) of this chapter may be followed.
- (3) A panchnama should be prepared even if the search is temporarily concluded. This should clearly indicate that the search was temporarily concluded and not finally concluded. If the search has been concluded in respect of a part of the premises, this fact should also be clearly recorded in the panchnama.
- (4) It is not necessary that the seizure of books of account, documents, bullion, other valuable article or thing, etc. should be made only on the conclusion of the search. A seizure can also be made even if the search has been suspended and is to continue on a subsequent day. Where a search of a part of the premises has been concluded, inventories of the books of account, documents, bullion, jewellery, other valuable article or thing, etc. found as a result of the search and seizures made should be prepared in the usual manner.
- (5) On the subsequent day, when the search is to be resumed, the seals should be opened in the presence of witnesses. As far as possible, the same persons who witnessed the search on the day it was suspended should be called upon to witness its continuation. However, if they are unavailable, the Authorised Officer should select two or more other respectable inhabitants of the locality in which the building or place to be searched is situated to attend and witness the search. The Authorised Officer should issue an order in writing to the persons selected to attend and witness the continuation of the search, even if they are the same persons who witnessed the search on the day it was suspended.

- (6) Where on a continuation of the search earlier suspended, any seal is found to be broken or tampered with, the matter should be immediately reported to the Control Room. A complaint to the police should also be lodged immediately. Contravention of an order under section 132(3) of the Act also entails prosecution under section 275 A of the Act.
- (7) The search may resume after the aforesaid actions have been taken.

#### **2.40. Conclusion of Search Proceedings**

**2.40.1.** The search team shall leave the premises after seeking permission from the Control Room after ensuring that all items/panchnama/seized material including digital devices/seized valuables, etc. are complete in respect of the seal/signature of the Authorised Officer, the assessee, witness, and experts whose services were utilized (wherever applicable). This should be doubly checked by the team leader and the second senior most officer/official in the team. After the conclusion of the search, the Authorised Officer should hand over the seized material, including money, bullion and jewellery, search folder, etc. to the Custodian in the Control Room.

**2.40.2.** The leader of the search team of a particular premises, after the conclusion of the search in that premises, should submit a report addressing the Joint/Addl. Director of Income Tax (Inv.) of the conducting unit. The report should mention all salient features of the search and seizure operation, including the problems, if any, faced by the search team; extent of damage, if any, caused to the premises searched and the reasons thereof; demeanour of the occupants of the premises or the search party; any untoward incident which took place during the search; details of important information given to the control room; intimation, if any, given to other Government agencies, given through the control room; any significant feature of the seized books of account, other documents, digital evidence, etc. found as a result of the search; highlights of statements recorded under section 132(4) and 131(1A) of the Act; and any other relevant information that the Authorised Officer(s) of the search team finds it necessary to make. All such notes recorded during the search, as have not been annexed to the panchnama or made a part thereof, should also be attached to the search report. A template of the Authorised Officer's report may be prepared, and the Authorised Officer should provide a report on the points noted on the template.

**2.40.3.** Some main steps that should be taken before concluding the search or temporarily concluding the same for being carried on a subsequent day are, in brief, as under:

- (1) A copy of the panchnama, along with all its annexures, should be provided to the person in whose case the search was conducted or, as the case may be, the person in-charge of the building, place, vessel, vehicle or aircraft searched, where such person is different from the former and acknowledgement for the same obtained on the original copy of the panchnama.
- (2) In case, a personal search of any person has been taken under section 132(1)(ii)(a) of the Act, a copy of the inventory or the list of all the things taken possession of, should

be given to such person and acknowledgement thereof obtained on the original copy of the inventory/list. A copy of the same should be attached to the panchnama.

- (3) The members of the search team should offer themselves for search by the person whose premises, is being searched or, as the case may be, the person in-charge of or in occupation of premises. This should be done in the presence of the witnesses. Search of lady members of the search team should be allowed to be made only by a lady present in, or occupying, the premises with a strict regard to decency. The fact that a personal search of the members of the search team was offered both before the commencement of the search and on its temporary conclusion or, as the case may be, a conclusion should be recorded in the panchnama, along with the fact whether such personal search was taken or declined.
- (4) The leader of the search team should ensure that none of the things brought by the team and required to be taken back by it, like kit bags, stationery, forms, brass seal and mobile phones, is left behind.
- (5) No search should be suspended or concluded without getting a clearance for doing so from the Control Room. The officer manning the Control Room should obtain instructions in the matter from the concerned Unit Head and communicate the same to the search team.

#### **2.41. Transport and safe custody of the seized materials**

**2.41.1.** The seized books of account, other documents and valuables should, as far as possible, be transported to the Control Room for being handed over to the Custodian, under police protection. Some members of the search team, including an Authorised Officer, must accompany the seized books of accounts, other documents and assets which are being transported.

**2.41.2.** Before receiving the seized material and other related document, the officer deputed to be the Custodian should ensure that all items/panchnama/seized material including digital devices/seized valuables, etc. are complete in respect of the seal/signature of the Authorised Officer, Assessee, witness, and experts whose services were utilized (wherever applicable)

#### **2.42. Handing over the seized books of account, etc. and seized money to the custodian**

**2.42.1.** The Authorised Officer, nominated as the leader of the search team, should hand over the books of account, other documents and the sealed package(s) containing the bullion, jewellery and other valuable article or thing, seized as a result of the search to the custodian. Any money seized during the search should also be deposited with him. All the copies of the panchnama (other than the copy handed over to the person in whose the case the search was conducted/the person in-charge or control of the premises searched), along with all its annexures should also be handed over to him. All other documents, not appended to the panchnama, like statements recorded under sections 131(1A) and 132(4) of the Act should also be handed over to the custodian. Search report should also be handed over to the Custodian.

The leader of the search team should as a good practice also submit a report to the Additional/Joint Director of Income Tax (Investigation) in-charge of the search mentioning salient features of the search and seizure operation, any untoward incident which took place during the search, any significant feature of the seized books of account, other documents, digital evidence, etc found as a result of the search and any other relevant information that he wishes to make.

**2.42.2.** As provided in rule 112(11), the custodian can be an Income-tax authority, not below the rank of the Income-tax Officer. A Deputy or Assistant Director of Income Tax (Investigation) should ordinarily perform these functions. He should be present in the control room to coordinate search operations and receive seized material, panchnamas, search report, etc., from the Authorised Officer(s). He should ensure that a sufficient number of other officials is available in the Control Room to assist him in the performance of this function.

**2.43. Steps required to be taken by the custodian for the safe custody of seized books of account and other documents and packages containing bullion, jewellery and other valuable article or thing.**

The custodian should take suitable steps for the safe custody of the books of account, other documents, including computer, hard disk, digital devices, storage media, etc. and the packages containing bullion, jewellery and other valuable article or things conveyed to him by the Authorised Officer. Further reference may be found in Chapter 3 of this Manual in this regard.

**2.44. Provisional Attachment under section 132 (9B)**

The Authorised Officer may provisionally attach any property belonging to the assessee if he is satisfied that for the purpose of protecting the interest of revenue, it is necessary to do so. The provisions of section 132 (9B) of the Act may be referred to in this regard.

**2.45. Search of bank lockers, other lockers/vaults, etc. outside the premises**

**2.45.1.** In a case where advance information is available about a bank locker, other lockers, etc. of a person and the authority competent to authorise search is satisfied that the statutory conditions laid down in section 132(1) of the Act justifying its search are fulfilled, he will issue a warrant of authorisation. The locker can then be searched in pursuance of such warrant of authorisation. It should be noted that the Addl.DIT(Inv.)/JDIT(Inv.) can only issue warrant in case of a person in whose case the Pr.DIT(Inv.) has already issued warrant. Thus, if a locker is held in name of person(s) in whose case Pr.DIT(Inv.) had not already issued warrant then such locker warrants should be issued by Pr.DIT(Inv.) himself/herself, after recording appropriate 'reason to believe' and not by Addl.DIT(Inv.)/ JDIT(Inv.).

**2.45.2.** There can, however, be cases where there is no advance information about the existence of any bank locker and a search is in the process of being conducted on certain premises. In such a situation, the Authorised Officer should ascertain whether the person concerned has hired any bank locker, other locker/vault, etc. In the initial/preliminary statement of such persons, specific and pointed queries regarding hiring of bank lockers, other lockers, etc.

should be made. If he gives information about his bank lockers or the existence of a bank locker is detected by any other means, keys thereof should be obtained. The information collected should be communicated immediately to the control room. A separate warrant of authorisation is needed for searching a bank locker or other locker, etc. If more than one locker is detected, separate warrant of authorisation will be needed for each of them. Till such time as warrants of authorisation for lockers are issued, the Control Room in-charge should take requisite steps to prevent their operation and removal of assets or documents kept therein.

**2.45.3.** Wherever necessary, a member of the search team or any other officer of the Department may visit the bank where the person in whose case the search is being conducted or his family members have, or are suspected to have hired lockers, vaults, etc. He should ask the Manager/person-in-charge of the lockers, vaults, etc. to produce the locker/vault register, by issuing summon. He should go through the said register/ ledger to ascertain whether there are lockers in the names of the person in whose case the search is being conducted or any of his family members or whether they hire any locker in any other name. This could be done by checking the addresses shown in the register/ledger with the person's address as well as by checking the lockers in the names of members of family, partners, employees, servants and associates.

**2.45.4.** The search team at a particular premises, either by itself or in coordination with the control room, should send a member(s) of search team to all the banks, where the family maintains bank accounts to inquire about the undisclosed bank lockers held by the searched group. The names of drivers and servants who have been working for the group for a long time, may also be included in the inquiry list submitted to the branch manager for searching the bank locker records. The identifiers like PAN, Aadhar, Mobile Numbers should be collected along with the names for searching the records of lockers/bank accounts etc. Since Private Vaults have relaxed KYC norms, due care should be taken to detect unaccounted assets kept therein of the assessee being searched.

**2.45.5.** The search conducting team, during the pre-search verification, may prepare a list of banks for inquiry about the bank lockers after the search has started. Such an inquiry on many occasions, have yielded promising results in small cities and towns.

**2.45.6.** If some important persons/family members are not found at the searched premises, the Authorised Officers should take possible steps to prevent the operation of bank lockers by such persons. The whereabouts of such persons should be inquired from the family members, and information should be passed on to the control room.

**2.45.7.** If following the warrant of authorisation for searching a bank locker, it is not possible to search the same immediately, an order under section 132(3) of the Act should be issued and served on the Bank Manager and the person(s) in whose name it has been hired.

**2.45.8.** The search team should ascertain the last date on which the locker was operated as also the details of locker rent paid and FDRs, etc., kept by the person with the bank.

**2.45.9.** Where keys of locker, vault, etc. are not available, arrangements may be made with the company supplying the vault for breaking open the locker. This should be done in accordance with the law. The points made in this chapter regarding breaking open of locks of any door, box, locker, safe, almirah or other receptacle inside the premises, will, so far as may be, apply here.

**2.45.10.** While intimation for searching a locker should be given to the person in whose name the locker stands, his presence is not mandatory and the search can take place in the presence of the bank manager and two independent witnesses.

**2.45.11.** Inventories of the locker contents should be prepared in the same manner as in the case of a search of any other premises. The decision with regard to the seizure of its contents will be governed by the same considerations as in the search of any other premises.

#### **2.46. Keys found during a search, their inventorisation and seizure**

**2.46.1.** If any key is found during a search, the Authorised Officer should make suitable inquiries to identify and locate the lock / locker / vault / any other receptacles to which it pertains. This exercise is important, as there is always a possibility that the key is that of a bank locker or a receptacle. Any delay in detecting, locating and searching such a locker or receptacle, etc., can adversely affect the purpose and process of the search.

**2.46.2.** Where any key found pertains to a bank locker or any other locker or vault or a receptacle, not inside the premises being searched, the Control Room should be informed about the same immediately. All efforts should be made to get information about bank lockers, other locker, etc. soon after entry into the premises, during initial/preliminary statements of the persons concerned. As soon as any relevant information is received, all efforts should be made to obtain the keys of such lockers. Keys should be seized. This is so because a separate warrant of authorisation is needed for the search of bank lockers, other lockers outside the premises, etc. It is, therefore, necessary that the Control Room is informed as early as possible about the existence of bank lockers, other lockers, etc. and keys thereof so that the appropriate authority can take a decision in the matter and prevent operation of the bank locker, other lockers, etc. in the meantime.

**2.46.3.** Each key seized should be separately tagged and marks of identification placed thereon together with the signatures of the person concerned and the witnesses.

**2.46.4.** Inventory of all keys found and seized during the search should be carefully prepared. This should contain details like where the key was found and its number and other details, if any, appearing on the key. Where the bank locker or other receptacles to which the key found pertains has been identified, full particulars like, bank locker number, name of the bank and branch, particulars of receptacles and its location, etc., should be recorded. The name of the person in whose name the locker/receptacle stands should also be mentioned. In case it is not admitted that the key pertains to a bank locker, the number alone should be mentioned without any reference to any bank locker.

## **2.47. Submission of Two-Hourly Report (THR)**

**2.47.1.** Investigation Module of Income Tax Business Application (ITBA) provides functionality for recording details of search and survey operations and generating reports relating thereto, viz. Two Hourly Report, Preliminary Search Report and Appraisal Report. The details of search and survey operations conducted by the Investigation Directorates must be invariably recorded in the Investigation Module of ITBA. The search and survey operations reports should also be submitted through ITBA. A two- hourly report may be submitted within 2 hours from the commencement of search and seizure operations at all premises.

## **2.48. Submission of Preliminary Search Report (PSR)**

**2.48.1.** Preliminary Search Report may be submitted within two working days from the day on which the search/requisition was concluded/temporarily concluded. The PSR should be submitted for lockers also which have been searched.

**2.48.2.** Recording details of search and survey operation in ITBA should be started immediately after the operation starts, i.e., after the search teams strike at the premises. Investigation Instruction No. 4 dated 04.09.2017 and User Manual, Step-by-Step guide and FAQs available on the Home Page of ITBA may be referred to for further details with regard to working on ITBA. The same is available under the heading ‘ITBA HELP GUIDE’.

**2.48.3.** The following are the MIS available in ITBA relating to Search and Survey Proceedings:

- a. Register of Search and Seizure u/ s 132/ 132A of the Income-tax Act, 1961
- b. Register of Survey u/ s 133A of the Income-tax Act, 1961
- b. Register of Prohibitory Order

**2.48.4.** The common deficiencies observed in the Two hourly report [THR] and the Preliminary Search Report [PSR] were communicated to the DGsIT(Inv.) vide **Board’s letter dated 11.10.2022 vide F. No. 287/2/2022-IT(Inv. II)**. *Inter alia*, these deficiencies may be removed before submitting the THR and PSRs. It cannot be overemphasised that appropriate support of the ITBA team of the Systems Directorate should be timely sought by/provided to the officers of the Investigation Directorates. A separate letter dated **11.10.2022 vide F. No. 287/2/2022-IT(Inv. II)**, addressed to the DGIT(Systems) & endorsed to all the DGsIT(Inv.) may be referred to in this context.

## **2.49. Contravention of Other Laws**

### **2.49.1. Antiquities or Art Treasure found during search and their inventorisation**

**2.49.1.1.** Where during a search, an article is found which, *prima facie*, appears to be an antiquity or of such an artistic or aesthetic value as worthy of being declared an ‘art treasure’ in terms of section 2 of the Antiquity and Art Treasures Act, 1972, the Authorised Officer

should make suitable preliminary inquiries from the person who is in possession or control of the same about its ownership, nature of possession, source from which and the date on which it was acquired; whether it has been registered with a registering officer appointed under the Antiquity and Art Treasures Act, 1972 and report the matter to Control Room. The officer-in-charge of control room should in turn, pass on the information to the concerned Unit Head, who should take further appropriate steps in accordance with the law and communicate suitable advice to the Authorised Officer. Some such steps are, in brief, as under:

- (1) The matter should be immediately brought to the notice of the Superintending Archaeologist, and his advice sought whether the article is antiquity or worthy of declaration as an art treasure [[Refer Instruction No. 994 dated 31.07.1976](#)].
- (2) In case, the article found is in the opinion of the Superintending Archaeologist, an antiquity or an art treasure, he should be requested to value the same or get it valued.
- (3) A report should be made (in duplicate) as early as possible to the Principal Director of Income Tax (Investigation), giving full particulars of the article, the advice received from the Superintending Archaeologist and the article's approximate market value as given by the latter and/or the valuer [[Refer Instruction No. 994 dated 31.07.1976](#)].
- (4) The article should not be released to the assessee or the person who was in control or possession of the same or otherwise disposed of till the receipt of the instructions of the Pr. DIT (Inv.).
- (5) Inventory of the things found should be prepared carefully, wherever necessary in consultation with the competent authority under the said Act or any expert detailed by him for the job.

**2.49.1.2.** In view of the provisions of the Antiquity and Art Treasures Act, 1972, the income-tax authorities cannot undertake any sale/auction of an antiquity or art treasure. When the Government compulsorily acquires an antiquity or art treasure, the compensation amount will be dealt with, in accordance with the provisions of section 132/132B of the Act. If the Director General, Archaeological Survey of India advises that the Government is not interested in acquiring an antiquity, it is permissible to sell the same, where necessary, through a licensed dealer.

**2.49.1.3.** Where any article found during the search is neither an antiquity nor an art treasure within the meaning of the Antiquity and Art Treasures Act, 1972 but is nevertheless a work of art of significant monetary value, the Authorised Officer should seek the Control Room's assistance for obtaining the services of a valuer for its valuation.

**2.49.1.4.** Care should be taken to ensure that the antiquity or art treasure or, as the case may be, valuable work or art found as a result of search is not in any way damaged or disfigured and no marking is made on the same for identification or for any other purpose. Depending upon the size, shape, etc. of the article or thing, a suitable methodology for its identification/placing marks of identification should be adopted. This should preferably be

done in consultation with an expert. For example, in certain situations, it may be possible to attach a white sheet of paper to the article and obtain thereon the signatures of witnesses, person(s) found to be in possession or control of the article or thing and the Authorised Officer.

**2.49.1.5.** The points made elsewhere in this chapter on valuation, inventorisation and examination for ascertaining the nature of possession and the source of acquisition of jewellery and ornaments will, so far as may be, also apply here. Where a seizure of any such article is to be made, the procedure for the seizure of bullion or jewellery or other valuable article or thing as given in Sub Rule (10) of Rule 112 of the Income-tax Rules, 1962 should also be strictly followed. However, in case the competent authority under the Antiquity and Art Treasures Act, 1972, seizes or takes possession of article or thing found during a search, this fact should be duly recorded in a running panchnama. The running panchnama should be signed by the Authorised Officer, the person from whose custody the said article or thing was found, witnesses to the search, and if possible, the competent authority under the said Act who made the seizure. This, along with the inventory showing the description, quantity and value of the article or thing, should be annexed to the panchnama.

#### **2.49.2. Wild animals, animal articles, trophies etc. or protected plants referred to in The Wild Life (Protection) Act, 1972 found during search**

**2.49.2.1.** During a search, the Authorised Officer may find a live wild animal in captivity or articles or trophies (whether cured or uncured) of wild animals that under The Wild Life (Protection) Act, 1972 are treated as the property of the Government. As provided in The Wild Life (Protection) Act, 1972, no person shall, without the written permission of the competent authority

- (i) acquire or keep in his possession, custody or control, or
- (ii) transfer to any person, whether by way of gift, sale or otherwise, or
- (iii) destroy or damage such Government property.

The Wild Life (Protection) Act, 1972 also prohibits dealing in animal articles without license. Certain Government authorities have been vested with the power of entry, search, seizure and detention if they have reasonable grounds for believing that any person has committed an offence under the aforesaid Act. Certain contraventions of The Wild Life (Protection) Act, 1972 invite punishment in the form of imprisonment and fine.

**2.49.2.2.** The Wild Life (Protection) Act, 1972 also enumerates that certain protected plants. Permission/license from the competent authority is required for their cultivation or possession.

**2.49.2.3.** Where during search any wild animal or thing is found that *prima facie* appears to be a property of the kind referred to above, the Authorised Officer should make suitable preliminary inquiries from the person who is in possession or control of the same about its ownership, nature of possession, source from which and the date on which it was acquired, whether it has been registered with a registering officer appointed under The Wild Life

(Protection) Act, 1972. He should report the matter to the Control Room. The officer-in-charge of control room should in turn pass on the information to the concerned Joint/Additional DIT (Investigation), who should take further appropriate steps in accordance with the law and communicate suitable advice to the Authorised Officer. Some such steps are, in brief, as under:

- (1) The matter should be immediately reported to the competent authority under The Wild Life (Protection) Act, 1972, and his advice sought whether the thing is a property of the type referred to above and if so, how to deal with the same.
- (2) In case the live animal, article or thing found is in the opinion of the said authority, a property of the type referred to above, he should be requested to value the same or get it valued.
- (3) The thing should not be either seized or released to the assessee or the person who was in control or possession of the same or otherwise disposed of till the receipt of the advice of the competent authority under the said Act. In case, despite best efforts, it is not possible to get the advice of a Competent Authority under The Wild Life (Protection) Act, 1972 in time, prohibitory orders under section 132(3) may be issued in respect of these things.
- (4) Inventory of articles, things, etc. found should be prepared carefully, preferably in consultation with the competent authority under the said Act or any expert detailed by him for the job.

**2.49.3.** The points made in this Chapter regarding valuation, inventorisation and examination for ascertaining the nature of possession and the source of acquisition of jewellery and ornaments will, so far as may be, also apply here. Where a seizure of any such article or thing is to be made after getting a clearance from the competent authority under the aforesaid Act, the procedure for the seizure of bullion or jewellery or other valuable article or thing as given in Sub Rule (10) of the Rule 112 of the Income-tax Rules, 1962 should also be strictly followed. A brief discussion on the same appears elsewhere in this chapter. However, in case the Competent Authority under the aforesaid Act seizes things found during search, this fact should be duly recorded in a note. The note should be signed by the Authorised Officer, the person from whose custody the said article or thing was found, witnesses to the search and if possible, the competent authority under the said Act who made the seizure. This, along with the inventory showing the description, quantity and value of the article or thing should be annexed to the panchnama.

**2.49.4.** It is seen that sometimes information pertaining to the possession of Arms and/or Narcotic Drugs and Psychotropic Substances are also sometimes found during the Search & Seizure operations. Necessary coordination with the Police/NCB/DRI may be made immediately in such cases, through the Control Room. A search may result in the detection of cases of violations and infractions of law under various other statutory enactments/rules like Prevention of Corruption Act, 1988, Arms Act, 1959, Foreign Exchange Management Act,

1999, Prevention of Money Laundering Act, 2002 which should be reported to the appropriate enforcement agencies.

**2.50. Information about previous search and survey or assessment proceedings discovered during the Search**

Where any information about any previous search or survey action by the department comes to the notice of any member of a search team during a search, he should immediately communicate the same to the Authorised Officer appointed as the leader of the team. The leader of the search team, or any other member of the team, if the leader is not readily available, should immediately pass on the information to the Control Room. He should also mention this fact in the report that is required to be submitted on the conclusion of the search. The officer-in-charge of the Control Room should immediately report the matter to the concerned Joint/Addl. DIT (Inv.) to facilitate further appropriate action in the matter. This information will help link the findings with the results of earlier actions.

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## CHAPTER - 3

### POST-SEARCH PROCEEDINGS

#### **3.1. Introduction**

Generally, upon the conduct of the search and seizure by the Investigation Directorate, various persons covered during the search and entities in relation to which documents/books of accounts/cash/bullion/jewellery etc. are found are centralised with the Central Charge for the purpose of coordinated investigation and assessments and other subsequent actions. The CBDT has issued several guidelines/instructions on post-search proceedings in the past on various aspects of the subject matter.

#### **3.2. Depositing the seized money in the Personal Deposit Account (PD Account) Opening and maintenance of the PD Account**

**3.2.1.** CBDT has issued instructions vide [F. No. 299/01/2019/Dir-INV\(III\) dated 03.04.2019](#) and vide [F. No. 299/01/2019/Dir - \(Inv.-III\)/988 dated 21.06.2019](#) which deals with matters regarding the PD Account. Further, ITBA Investigation Module -1 dated 05.04.2016, deals with PD account and strong room operations. The Pr. DIT (Inv.) must ensure that the PD Accounts and Strong Rooms in their possession are registered in the PD Account and the Strong Room functionality, respectively, of the Investigation Module of ITBA. Wherever bank lockers are being used for storing valuables, such lockers are also required to be registered in Strong Room functionality. Further, the Pr. CITs should also ensure that their PD Accounts are registered in the PD Account functionality of the Investigation Module of ITBA.

**3.2.2.** The deposits and withdrawals in the PD Account are subject to audit by the Zonal Accounts Officer, CBDT. The accounts are also subject to audit by the officers from Comptroller and Auditor General once a year. The responsible officer as mentioned in para 3.3, below, should ensure that entries in the bank account are checked and reconciled with the entries in the ITBA.

**3.2.3.** The Custodian/Conducting Unit receiving the seized money from the search teams should ensure that the seized money is credited to the PD Account of the Pr. DIT(Inv.) through the nearest branch of the Reserve Bank of India, the State Bank of India or of its subsidiaries, or any authorised bank as per Rule 112(12)(iii) of the Income Tax Rules, 1962.

**3.2.4.** Sometimes, in exceptional cases, retaining the seized currency may become necessary to preserve the identity of currency notes for evidentiary value. In such cases, the Pr. DIT(Inv.)/Pr. CIT may, after consultation with the prosecution counsel, retain the currency in original form and record his reasons for doing so and the seized currency should not be deposited in PD account in such cases. Also, an inventory of the note numbers and their respective denominations should be made. If retention of currency notes in their original form is necessary, the same may be placed in a package and kept in the safe custody of a bank/treasury/strong room ([Instruction No. 806 dated 30.11.1974](#)).

### **3.3. Custodian of the PD Account**

**3.3.1.** The Pr. CIT/Pr. DIT, who has a PD Account, should appoint an officer not below the rank of an ITO to perform the functions of the Custodian of the PD Account. His main functions would include:

- (1) Maintenance of ledger and Cash Book for the said account
- (2) Keeping custody of challans by which money was deposited in the PD Account and cheque book for the said account
- (3) To get the account audited by the ZAO/C&AG
- (4) Reconciliation of account (The balances in the monthly statements of PD Account received from the Bank and those maintained by the Custodian, should be reconciled every month.)

**3.3.2.** The specimen signatures of the Pr. CIT/Pr. DIT(Inv.) as well as the Custodian of PD Account are maintained with the Bank for operating the PD Account. As soon as the incumbents are transferred out, the signatures of the new incumbents should be forwarded to the Bank.

### **3.4. Preparation of checklist after the search and seizure action**

**3.4.1.** After the search teams have handed over the panchnama, seized material, etc., to the Custodian/Conducting Unit, the Conducting Unit should prepare a checklist containing details of all pending items of work that need suitable follow-up action. The checklist may, among other things, include the following:

- i. List of places where search has not been concluded.
- ii. Details of bank lockers placed under restraint under section 132(3) of the Act and to be searched subsequently.
- iii. Details of bank accounts, FDRs, and demat accounts, placed under restraint/prohibitory order under section 132(3) of the Act.
- iv. List of places where books of account, documents, valuables, etc. are kept under prohibitory order under section 132(3) of the Act
- v. Details of cash to be deposited/already deposited in the PD Account.
- vi. Details of packages of bullion, jewellery, other valuable article or thing, etc. required to be deposited in the Strong room/safe deposit vault of the Bank.
- vii. Details of seized digital evidence collected during the search.

- viii. List of pending jobs, such as extraction of data from the seized digital devices, and valuation of jewellery, bullion, other valuable article or thing, if pending.
- ix. Details of sealed covers, if any, containing damaged/mutilated documents or other things.
- x. Particulars of complaints, if any, filed with police as a result of any incident during the search and follow-up action required to be taken.
- xi. List of reports required to be sent to the Board and other authorities, wherever required.
- xii. List of communications issued without DIN during the course of the action.

### **3.5. Main post-search jobs required to be done in the Investigation Wing**

The main post-search jobs required to be done in the Investigation Wing are:

- (1) Preparation of an Action Plan for post-search investigation and obtaining approval from Pr. DIT(Inv.).
- (2) Depositing the seized money in the PD Account of the Pr. DIT (Inv.).
- (3) Safe custody of the seized documents/assets.
- (4) Follow-up actions and completion of pending jobs, like search/ operation of bank lockers placed under prohibitory order under section 132(3).
- (5) Finalisation of proceedings relating to prohibitory orders under section 132 (3.)
- (6) Submission of search-related reports to the Board and other authorities.
- (7) Submission of a draft press release to CBDT, if required.
- (8) Regularisation of communications issued during search without DIN as stated in [Circular No. 19 of 2019](#).
- (9) Preparation of appraisal reports and its communication to the AO and other authorities.
- (10) Handing over of the seized material to the AO.
- (11) Intimations to other enforcement agencies, authorities, departments, etc.
- (12) Identifying the cases fit for Prosecution, whose prosecution need not wait till initiation or completion of the assessment proceedings and launching prosecution in such cases.

### **3.6. Preparation of post-search action plan, post-search investigation and obtaining approval from Pr.DIT(Inv.)**

**3.6.1.** After completion of the initial search, the IO should prepare a post-search action plan clearly laying down the road map of investigation. The proposed action plan should clearly mention the following:

- a) Works pending with regard to the conclusion of search such as opening of sealed premises and operation of lockers
- b) Broad issues/ modus operandi identified during the course of search, the enquiries (if any required) proposed for consolidating the said issues such as the hot-pursuit enquiries, consequential search/ survey, recording of statements of key witnesses/ persons etc.

The action plan should also mention the expected time required for completion of these proposed actions/ enquiries.

**3.6.2.** The plan should be prepared in consultation with the Unit Head and should be approved by Pr. DIT(Inv.), as early as possible. Further action relating to regularising communications issued without DIN during the search should be completed as stated in Circular No. 19 of 2019.

**3.6.3.** Since the post-search investigation is a dynamic process, where on account of subsequent developments, certain additional enquiries/ verifications not mentioned in the initial action plan become necessary, then this should be brought to the notice of the Pr DIT (Inv) at the earliest possible.

### **3.7. Safe custody of seized bullion, Jewellery and other valuable article or thing and maintenance and operation of Strong rooms**

**3.7.1.** Bullion, jewellery and other valuable article or thing will be kept in the department's strong room. In places where there is no strong room, the Pr. CIT/Pr. DIT(Inv.) should hire safe deposit lockers in the State Bank of India or any of its subsidiaries or any other nationalised bank, which should be operated jointly by two officers nominated by him. The Pr. CIT/ Pr. DIT(Inv.) is the custodian of the Strong Room and may nominate appropriate subordinate officer(s) to functionally act as Custodian(s) for operating the Strong Room. Necessary registers shall be maintained in the strong room containing details of the operation of the strong room which may include the date and time of entry/departure/ nature of visit, particulars of the things deposited/ taken out etc.

**3.7.2.** For the purpose of physical features and security of Strong Room, reference may be made to the Board's [Instruction No. 1580 dated 17.10.1984 in F. No. 286/26/84-IT \(Inv. II\)](#) where Board's Instructions F. No. I-11020/34/76AD. IX dated 19.06.1978 has been referred to.

**3.7.3.** ITBA/Inv. Instruction No. 2 dated 31.10.2016 provides for strong room facilities by Pr. DIT(Inv.). ITBA Investigation Instruction No.5 dated 12.03.2018 deals with adjustment/release of cash and adjustment/release of assets (other than cash). Further, **CBDT vide Letter [F.No.299/06/2023-Dir \(Inv-III\) dated 16.10.2023](#)** has issued revised instructions for release of seized assets other than cash.

### **3.8. Provisional Attachment of property**

Section 132(9B) of the Act provides that where during the course of the search or within sixty days of execution of the last warrant of authorisation, the Authorised Officer, for reasons to be recorded in writing, is satisfied that for the purposes of protecting the interest of revenue, it is necessary to provisionally attach any property belonging to the assessee, he may do so with the previous approval of Pr. DGIT/DGIT/Pr. DIT/DIT(Inv.). As per Section 132(9C) of the Act, such attachment shall have effect for a period of 6 months from the date of order.

### **3.9. Reference to Valuation Officer under section 132(9D) of the Act**

As per Section 132(9D) of the Act, for estimating the fair market value of property, the Authorised Officer may make a reference to the Valuation Officer, during the course of the search or within sixty days from the date on which the last of the authorisation for the search was executed. It also provides that the Valuation Officer shall furnish the valuation report within sixty days of receipt of such reference. This provision enables the Authorised Officer to correctly estimate and quantify the undisclosed income held in the form of investment or property by the assessee. It is advised that the Authorised Officer records the reasons for making such a reference to the Valuation Officer. [Refer Rule 13 and Rule 13A of Income tax Rules'1962 & Advisory for smooth implementation of Rule 13 & Rule 13A for DGsIT(Inv.) Charges [ [F.No.286/72/2023-IT\(Inv. II\) dated 04.12.2023](#)].

### **3.10. Identification of Core Document and allowing the assessee to inspect the seized/impounded documents/ devices**

**3.10.1.** The IO, under the guidance of the Unit Head shall scrutinise the seized material at the earliest and identify the most incriminating documents as "Core Documents". They will inform the Pr. DIT (Inv.) concerned about these core documents, inter alia, through the post-search action plan, and the Unit Head should keep copies of these core documents with him for the future. For easy reference during post-search investigations, digitising/scanning of the physical documents/seized material, etc. may be considered.

**3.10.2.** Keeping in view the core documents and other incriminating evidence, the IO shall conduct necessary enquiries and follow-up actions in consultation with the unit head. Where necessary, the IO should examine the searched person and other relevant persons with reference to incriminating evidence and draw appropriate inferences. The Appraisal Report shall invariably contain findings about the core documents.

**3.10.3.** Requests of the assessee for inspection of seized documents may be allowed by the IO, once the core documents are identified. The IO shall take due care of protecting the seized

documents and their integrity while allowing the inspection and shall keep a record of the opportunity of inspection granted to the assessee. The information regarding the inspection and providing a copy of the seized documents shall be shared with the Assessing Officer and should also be mentioned in the Appraisal Report.

**3.10.4.** The “Core Documents” should invariably be confronted to the assessee by the processing DDIT(Inv.)/ADIT (Inv.) during the post search investigation and statement of assessee is to be recorded, if the same has not been confronted during the search and seizure action and mentioned in the statement on oath. In case, on request of the assessee, copies/extracts of the seized material, including the core documents are given to him, the same should be clearly mentioned in the Appraisal Report.

### **3.11. Appraisal Report**

**3.11.1.** The main purpose of the Appraisal Report is to highlight the relevant facts and evidence gathered as a result of the search and subsequent investigations. This is also a means for communicating to the Assessing Officer the basis on which the search was conducted and the significant events that took place during the search and post-search investigations.

**3.11.2.** The DDIT/ADIT(Inv.) is required to prepare an Appraisal Report containing the salient aspects of the search conducted, such as the particulars of the persons covered, the evidences found in the seized material (with clear reference to the annexure number and premise from where the evidence was found), the enquiries carried out to validate the seized material, the modus operandi followed, the statements recorded and preliminary inferences/ findings on the evidences found, with recommendations for future course of action. The extracts/ copies of the key evidence, copies of panchnamas, the copies of all the statements recorded, the copies of bank statements relied upon for corroborating the issue, the copies of jewellery deposit receipts issued by bank (where there is no strongroom), copies of cash deposit/ DDs in case of cash seizure may also be made part of the appraisal with clear listing. The list of assesses wherein action is proposed under section 158BD along with reasons thereof may also be enclosed. Separate chapters may also be made for issues involving Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the PBPT Act, 1988. The DDIT/ADIT(Inv.) is required to prepare an Appraisal Report containing the salient aspects of the search conducted, such as the particulars of the persons covered, evidences found in the seized material, panchnamas, statements recorded and preliminary inferences on the evidences found, with recommendations for future course of action. The Addl.DIT(Inv.) concerned should regularly monitor the progress of the Appraisal Report, in line with the action plan approved and any emergent operational/legal development in the case.

**3.11.3.** After obtaining approval from the Pr. DIT(Inv.), the Appraisal Report should be sent to the concerned Assessing Officer in Central Charge, Joint/ Additional CIT concerned, Pr. CIT & CCIT/DGIT(Inv.) concerned (as applicable). A copy of the report should also be sent to the Pr. DIT (Inv.) and DGIT (Inv.). In case any fact or conclusion drawn in the appraisal report is also relevant to the functions assigned to any income-tax authority other than those named above, relevant information should also be passed on to such authority. It may also be

mentioned that the Appraisal Report has no reference in the Income-tax Act, 1961. The proceedings which are material for the assessee commence with the issue of notice under relevant sections of the Income-tax Act, 1961. The Appraisal Report is an internal administrative document meant for the guidance of the assessing officers. Board vide **Letter F.No.289/8/2021-IT (Inv.II) dated 13.04.2022** has issued instructions, *inter alia*, stating that only relevant contents/extracts of the appraisal report and not the entire Appraisal Report/Survey Report may be shared with the law enforcement agency concerned, unless otherwise required. The Assessing Officers are required to consider the seized documents, the statements recorded, and the result of inquiries conducted by the IO as the base material and not merely rely on the appraisal report. The AOs are required to make further inquiries and come to their own judgments after providing opportunities to the assessee.

**3.11.4.** As per Board's Instruction 7 of 2003 (**F. No 286/77/2003-IT(Inv. II) dated 30.07.2003**, *inter alia*, the preparation of Appraisal Report should be completed by the Investigation wing within a period of 60 days from the date on which the last of the authorizations for search was executed. Further, as per Board's letter **F. No. 286/76/2007-IT(Inv.II) dated 26.09.2007**, in cases where Appraisal Report is not finalised within 120 days from the execution of the first warrant, the DGIT(Inv.) should mention such cases in DO letter to the Board, along with reasons.

**3.11.5.** In case, the report is getting delayed for valid reasons, the main report may be sent at the earliest possible and findings of the pending enquires could be sent in a supplementary report to the AO.

**3.11.6.** On receipt of the Appraisal Report and seized material, the Assessing Officer, under the guidance of the Range head, should scrutinise the same and prepare an examination note to decide cases where notices for assessment/re-assessment are required to be issued.

**3.11.7.** Where, in the opinion of the Assessing Officer, any further enquiry cannot be carried out by the Assessing Officer and same are necessary to be carried out by the Investigation Wing on any particular issue, the same should be brought to the knowledge of the Pr. CIT in writing, who may, thereafter request the Pr. DIT(Inv.) for carrying out such enquiries. The Investigation Wing should carry out the necessary enquiries and inform the outcome of these enquiries to the concerned Pr. CIT.

### **3.12. Centralisation of search cases**

**3.12.1.** All search cases and connected survey cases are generally centralised in central charges to facilitate coordinated and sustained investigations. The instructions regarding centralisation of cases have been laid down by the Board from time to time vide **F. No. 299/107/2013-IT (Inv. III) dated 25.04.2014**, **F. No. 299/14/2013- DIR (Inv. III)/605 dated 11.02.2013**, **F. No. 286/88/2008-IT (Inv. II) dated 24.08.2009** and **F. No. 286/88/2008-IT (Inv.II) dated 17.09.2008**.

**3.12.2.** In regions where there is more than one Pr. CIT (Central), the DGIT (Inv.)/CCIT(Central) may identify the PCIT(Central) in whose charge the cases will be centralised and inform the Pr. DIT (Inv.) concerned and the Pr. CIT (Central).

**3.12.3.** The IO may initiate a proposal for centralisation within one month of the date of initiation of the search. The process should be completed within two months of the initiation of search. Following process should be followed for centralisation;

- i. Soon after the search in a case or a group of cases, the IO, through Unit Head, will submit a proposal for centralisation to the Pr.DIT(Inv.)
- ii. The Pr. DIT (Inv.) may forward the proposal to the DGIT(Inv.)/CCIT (Central)/Pr. CIT (Central) who will then identify the Central Charge where the case will be centralised
- iii. The concerned Pr. CIT (Central) will write to the Pr. CIT(s) having jurisdiction over the cases with a copy to their respective CCIT(s) requesting to transfer the relevant cases to the identified Assessing Officer in his jurisdiction.
- iv. The Pr. CIT(s) having jurisdiction should pass the requisite order(s) under section 127 of the Act on receipt of the communication from the Pr. CIT (Central) concerned in cases where no change of station is involved. In cases where a change of station is involved, he should give an opportunity of being heard to the assessee and pass orders thereafter within 60 days of receipt of the proposal.
- v. In respect of cases involving change of station and facilitate early centralisation of the cases, the Investigation Wing should send draft show-cause notices (SCNs) to be issued by the jurisdictional PCIT(s) for being given an opportunity of being heard. Such draft SCNs shall contain specific reasons to justify the proposed centralisation.
- vi. Where the CCIT/Pr. CIT are not in agreement with the proposal of centralisation, the CCIT concerned should inform the DGIT(Inv.)/CCIT(Central) about the disagreement and the reasons for the same immediately. If the disagreement cannot be resolved, the DGIT (Inv.)/CCIT(Central) should forward the proposal along with his comments to the Member (Investigation), CBDT, for an expeditious resolution.
- vii. The IO should initiate the process of centralisation of cases through the screen 'Initiate Centralisation' in the Investigation Module of ITBA. The path for reaching this screen is -Menu >>Search and Survey>> Initiate Centralisation.

**3.12.4.** Search-related assessments are required to be completed within the time-limit laid down in the Act, and any delay in centralisation may affect the quality of investigation by the Assessing Officer. Once a decision for centralisation has been taken, all follow-up actions may be taken without delay. Some major actions include:

- (i) The transferring Pr. CIT should, keeping in view the relevant statutory provisions and the views taken by the Courts in various cases in this regard, pass a suitable order under section 127 of the Act, indicating, *inter alia*, the date from which the order is effective.
- (ii) After the order referred to at S. No. (i) above has been passed, the transferring Assessing Officer should transfer all the assessment records, records of other proceedings and matters relating to the transferred cases to the transferee Assessing Officer before the date from which the order under section 127 of the Act is effective. He should also send the transferee Assessing Officer a list of all pending (including pending time-barring actions along with their respective time barring dates) actions, proceedings, outstanding demands, etc.
- (iii) The transferor Assessing Officer should migrate the PAN in the ITBA
- (iv) The transferring Pr. CIT should transfer the following to the transferee Pr. CIT:
  - (a) In case the transferee Pr. CIT has a separate PD Account, the transferring Pr. CIT should transfer the seized money relating to the case lying in his PD Account, if any, to that of the transferee CIT.
  - (b) Confidential files relating to the search, including copies of the appraisal reports, if any already received.
  - (c) Other records relating to the case(s) maintained in his office, like matters relating to sections 273A of the Act, 264 of the Act, grievance petitions, TEPs, etc.
- (v) The CCIT/DGIT from whose region the cases have been transferred to another region should transfer all records of such cases maintained in his office to the CCIT/DGIT in whose region the cases have been centralised.

### **3.13. Inspection of seized books of accounts and documents by the person searched**

**3.13.1.** The person searched is entitled to inspect the seized books and documents, take extracts there from and obtain copies thereof. Ordinarily, the need for inspection or taking extracts will not arise if copies of the seized material (including digital material) are provided to the person searched when a request for the same is made by him before the processing DDIT(Inv.). The IO should ensure that all requests for inspection and providing copies of seized books of account, documents, etc. are promptly attended to and dealt with in accordance with the law. **Board's letter [F. No. 286/57/2002-IT \(Inv. II\) dated the 3<sup>rd</sup> July, 2002](#)** lays down that inspection of seized records should be allowed within fifteen days from the date of receipt of application in this regard. He should also inform the Assessing Officer about the action taken by him in the matter and mention the same in the Appraisal Report. If possible, a certificate in this regard may be obtained from the person to whom the inspection was provided, and copies of seized books of account and documents were provided. It should be noted that when the seized material reaches the Assessing Officer, he must ensure that the assessee has been provided an inspection of the seized material and copies thereof as requested by him, if not

provided in the investigation wing. In this context, **Board's letter [F. No. 286/161/2006-IT \(Inv. II\) dated 22.12.2006](#)** may also be referred to.

**3.13.2.** It is pertinent to mention here that the right of the person searched also includes the right to have a copy of any statement before it is used against him in assessment or prosecution proceedings. The request from the assessee for a copy of the statement may be seen in light of the facts and circumstances of the case and stage of the investigation. However, a copy of the statement should be provided before the completion of the assessment or prosecution proceedings.

### **3.14. Copies of seized material**

The following precautions should be taken while taking copies of seized material:

- (1) As far as possible, the persons searched or his authorised representative should not be allowed to be present in the room where copies are being generated.
- (2) Care should be taken to ensure that the seized materials are not in any way damaged, mutilated, or misplaced.
- (3) If, in the process of generating copies, the original seal is likely to break or be damaged, it must be ensured that the paper(s)/document(s) to be photocopied are removed from the bundle in the presence of the person from whom it was seized and two independent witnesses. A person like, an employee of the Income Tax Department or the person to whom photocopies are being provided, or a legal consultant of the said person should not be appointed as a witness. Other points regarding the selection of witnesses will, so far as may be for the search and seizure, also apply here. After copies have been taken, the bundle should be restored and sealed. A panchnama/mazharnama evidencing these events should be prepared. It should be signed by the officer, the person to whom inspection is being allowed and copies are being provided, and at least two independent witnesses.

### **3.15. Inspection and taking extracts of seized documents, books of accounts, etc.**

The following points should be kept in view while affording inspection of the seized books of accounts and other documents:

- (1) Inspection should be allowed only on a written request of the person from whose custody the books of accounts and other documents were seized, specifying the particular document of which inspection is sought. No inspection of a general nature should be allowed.
- (2) On receipt of the written request, a suitable appointment should be given to the person concerned, and a record of the same may be kept. Some conditions that should be imposed for inspection are:
  - (i) Not more than two authorised persons will be allowed to inspect the documents.

- (ii) They should bring only a black pencil and white paper with them.
- (iii) Only one document will be inspected at a time.
- (3) The documents, which in the opinion of the authority permitting inspection/taking extracts, are sensitive should be placed below a glass sheet, and the person should not be allowed to handle the document himself.
- (4) When extracts are taken, the person concerned should be asked to make a copy of the extracts duly signed by him, which should be retained by the authority allowing inspection.
- (5) The inspection should be allowed under the personal supervision of the IO or the Assessing Officer, as the case may be. The person concerned should not be left alone with the seized books and documents, nor should he be permitted to bring ink or other liquids because there is a danger of the books of accounts and other documents being defaced or mutilated.
- (6) Any attempt on the part of the person(s) inspecting the documents to tamper with them should be reported to the Pr. CIT/Pr. DIT(Inv.)
- (7) If while taking extracts or allowing inspection, the original seal is likely to break or be damaged, it must be ensured that the paper(s)/document(s) are removed from the bundle in the presence of the person from whom it was seized and two independent witnesses. After inspection/taking or extracts is completed, the bundle should be restored and sealed. A *panchnama/mazharnama* evidencing these events should be prepared. It should be signed by the officer, the person to whom inspection is being allowed, and at least two independent witnesses.
- (8) The concerned IO should keep a record of these proceedings in his file so that there can be no allegations at a future date about lack of opportunity or delay in affording inspection or providing extracts.

### **3.16. Retention of seized books of account and documents**

The seized material cannot be retained beyond a period of 30 days from the date of the assessment order, except with the approval of the competent authority as per Section 132(8) of the Act. The Assessing Officer should communicate, to the person concerned, the competent authority's order allowing retention of books of account under section 132(8), along with the reasons for retention. The Competent Authority, as per Section 132(8) of the Act can also not authorise the retention of books and other documents for a period exceeding thirty days after all the proceedings under the Act in respect of the years for which the books of account or other documents are relevant are completed. Further, in survey cases, as per provisions of Section 133A(3)(ia) of the Act, retention of books of account and other documents impounded during survey is required to be taken from Pr.CCIT CCIT/DGIT/Pr.CIT/Pr.DIT/CIT within 15 days (exclusive of holidays) of the date of impounding. Similarly, where books of account or documents are impounded u/s 131(3) of the Act, retention of books of account and other

documents is required to be taken from Pr.CCIT/ CCIT/DGIT/Pr.CIT/Pr.DIT/CIT within 15 days (exclusive of holidays) of the date of impounding.

### **3.17. Handling of digital data and security of personal data**

**3.17.1.** Search and seizure action mandated in the Income-tax Act, 1961 is a fact-finding and evidence collection exercise. During these actions, it is noticed that the evidence seized by the Department increasingly consists of digital data in the form of Mobile phones, Ipads, Laptops, etc., which is extracted, preserved and analyzed to use the same for the purposes of investigation, assessment and other relevant proceedings. The digital devices usually encompass a broad spectrum of digital data, comprising a wide array of encrypted records, electronic records, files, and information. This digital information is a critical part of the investigative process, as it provides valuable insights and evidence related to potential tax irregularities, concealments, evasions or frauds.

**3.17.2.** While seizure of data found during the course of search and seizure actions is crucial in determining the amount of tax evasion in the case of the persons involved, due attention also needs to be given to the aspect of data security and privacy. The officers are advised to follow the procedures and directions contained in the '**Digital Evidence Investigation Manual 2014**' as updated from time to time. It is also imperative that digital data should be seized in forensically sound manner and compliance with provisions of '**The Bharatiya Sakshya Adhiniyam 2023**' should be ensured.

**3.17.3.** Segregation of personal and financial data at the time of seizure may not be feasible as digital devices contain both financial as well as personal data. The hash value which is generated at the time of seizure ensures that data seized from the digital device is done in prescribed manner ensuring integrity and any manual intervention would make the data disputable and subject to challenge in court of law.

**3.17.4.** This imaged data along with the original devices (wherever it is seized) should remain in the safe custody and control of the Investigating officer. The seized data should be stored in a sanitized, access-controlled environment. The Digital Intelligence and Analytics Labs (DIALs) being set up across India in the Investigation Directorates should also be designed to further enhance the capabilities of department in handling the seized data through modern tools in a safe, secure and access-controlled environment. It is further to be ensured that the seized/impounded data is accessed only by authorized officers or the persons/experts authorized in this regard. The provisions of '**Digital Personal Data Protection Act, 2023**' (DPDPA) needs to be adhered to for protection of digital data obtained in fiduciary capacity by the Income Tax Department (ITD).

**3.17.5.** While sharing of the relevant intelligence/information received/acquired during search and seizure/survey operations and post survey/search investigations with the concerned LEAs, it should be ensured that only the relevant information/data related to the violations of the statutes administered by them are shared.

### **3.18. Intimation to other enforcement agencies, authorities, departments**

**3.18.1.** A search may result in the detection of violations /infractions of laws under other statutory enactments/ rules. If such violations and infractions require immediate action, the same may be intimated to the concerned enforcement agencies or departments during the search itself, after following the due process as per section 138 of the Act. It may also be noted that no sharing of information/request for information, which pertains to Search and Seizure operations, shall be made without approval of Pr.DIT(Inv.)/Pr.CIT(Central) concerned. Chapter 9, dealing with exchange of information with other agencies and authorities may be referred to for further details.

**3.18.2.** The satisfaction note contains, among other things, sensitive sources of information which are secret in nature. Sharing of satisfaction notes may not only critically impact the secrecy of the information/intelligence gathering process but also compromise sources/databases, posing a threat to the lives of the concerned persons. This would have a deleterious impact on the process of direct tax investigations and may cause a breach of well-established protocols. Hence, the satisfaction note shall not be shared, in any case with any LEA[Kindly refer to Board's communication vide [F.No.286/45/2012-IT \(Inv.II\) dated 23.05.2012](#)]

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## CHAPTER - 4

### REQUISITION OF BOOKS OF ACCOUNT, OTHER DOCUMENTS OR ASSETS TAKEN INTO CUSTODY BY ANY OFFICER OR AUTHORITY

#### **4.1. Introduction**

There may be cases where authorities like the Police, Enforcement Directorate, DGGI, GST, DRI etc., have taken into custody books of account, other documents and assets of a person under any law being administered by them. These may be useful for or relevant to any proceedings under the Income-tax Act, 1961 (the Act). Section 132A of the Act empowers specified income-tax authorities to authorise certain other income-tax authorities to requisition books of account, other documents or assets taken into custody by any other officer or authority under any law for the time being in force. Rule 112D of the Income Tax Rules, 1962 outlines the procedure for requisition and delivery of such books of account, other documents, or assets.

#### **4.2. Income-tax authority competent to authorise the requisition of books of account, etc. and the Income-tax authority that can be so authorised.**

**4.2.1.** The Income-tax authorities that are competent to authorise requisition of books of account, other documents or assets, taken into custody by any officer or authority, under any law for the time being in force include Principal Director General of Income-tax, Director General of Income-tax, Principal Director of Income-tax, Director of Income-tax, Principal Chief Commissioner of Income-tax, Chief Commissioner of Income-tax, Principal Commissioner of Income-tax & Commissioner of Income-tax. Under the existing administrative distribution of functions, requisition of books of account, etc., under section 132A(1) are ordinarily authorised by the Pr. DIT(Inv.). Administrative approval of the DGIT(Inv.), similar to search action under section 132, is also required.

**4.2.2.** The list of income-tax authorities that can be so authorised (**‘requisitioning officer’**) includes Additional/ Joint Director of Income-tax, Additional/ Joint Commissioner of Income-tax, Deputy Director of Income-tax, Deputy Commissioner of Income-tax, Assistant Director of Income-tax, Assistant Commissioner of Income-tax & Income-tax Officer.

**4.2.3.** The authority authorizing the requisition u/s 132A of the Act should record the reasons to believe that:

- a) any person to whom a summons under sub-section (1) of section 131 of the Act, or a notice under sub-section (1) of section 142 of the 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 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 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 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,

**4.2.4.** If so required, the Authorizing Officer should get further suitable inquiries or probes done before authorising requisition in a case. An authorisation under section 132A(1) of the Act should be issued in Form No. 45C as provided in Rule 112D of the Income-tax Rules, 1962. As per Explanation to Section 132A(1) of the Act, introduced vide Finance Act, 2017 (with effect from 1.10.1975), the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.

### **4.3. Procedure for requisition and delivery of books of account, other documents and assets**

**4.3.1.** After obtaining the authorisation in Form No. 45C, the Requisitioning Officer should make a written requisition to the officer or authority in custody of the books of account, other documents or assets, etc. calling upon him/it to deliver the books of account, other documents and assets specified in the requisition. The requisition shall be accompanied by a copy of the authorisation in Form No. 45C. A copy of the requisition, along with a copy of the authorisation in Form No. 45C, shall also be forwarded to the person referred to in clause (a), or clause (b) or, or clause (c) of section 132A(1) of the Act.

**4.3.2.** On such a requisition being made, the said officer or authority shall deliver such 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.

**4.3.3.** In this regard, Rule 112D(3) of the Income-tax Rules, 1962 may be referred, which states as below;

*“The delivering officer or authority shall prepare a list of the books of account or other documents delivered to the requisitioning officer. Before effecting delivery of any bullion, jewellery or other valuable article or thing, the delivering officer or authority shall place or cause to be placed such bullion, jewellery, article or thing in a package or packages which shall be listed with details of such bullion, jewellery, article or thing placed therein. Every such*

*package shall bear an identification mark and seal of the requisitioning officer or of any other income-tax authority not below the rank of Income-tax Officer on behalf of the requisitioning officer, and also of the delivering officer or authority. The person referred to in clause (a) or clause (b) or, as the case may be, clause (c) of sub-section (1) of section 132A or any other person on his behalf shall also be permitted to place his seal on the said package or packages. A copy of the list prepared shall be delivered to such person and a copy thereof shall also be forwarded by the delivering officer to the [Chief Commissioner or Commissioner] and also to the [Director-General or Director] where the authorisation under sub-rule (1) has been issued by him”.*

**4.3.4.** The requisitioning officer should exercise due diligence in obtaining a list of books of account, other documents and assets being taken over. Due records should also be made regarding missing/torn/damaged pages in any books of account or document and an acknowledgement of the delivering officer/authority should also be taken in this regard.

**4.3.5.** In cases where any bullion, jewellery or other valuable article or thing is being taken over, such items should ideally be packed appropriately, and the packaging must be labelled for easy identification. Such packages should bear identification marks/seals/signatures of the requisitioning officer as well as of delivering Officer/authority and also the person referred to in clauses (a), (b), or (c) of section 132A (1) of the Act.

**4.3.6.** The Requisitioning Officer should draw up a memorandum giving record of proceedings indicating, inter alia, the various events like, requisition made, books of account, other documents or assets delivered. Only Memorandum/Record of proceedings are to be drawn and there is no need to compulsorily draw a panchnama.

**4.3.7.** The provisions of sub-rules (11) to (14) of Rule 112 and of Rules 112A, 112B and 112C of the Income-tax Rules, 1962, so far as may be, apply to requisition and delivery of books of account, other documents and assets apply, as if-

- (i) the books of account, other documents and assets delivered to the requisitioning officer under section 132A of the Act had been seized by him under section 132(1) of the Act from the custody of the person referred to in clause (a) or clause (b) or clause (c) of section 132(1) of the Act; and
- (ii) for the words “the authorised officer” occurring in any of the aforesaid sub-rules and rules, the words “the requisitioning officer” were substituted.

#### **4.4. Handling of certain enforcement problems/situations**

An illustrative list of some issues that may arise in the enforcement of the provisions of section 132A of the Act are briefly discussed below:

- (1) The officer or authority in custody of the books of account, documents or assets may refuse to deliver the same forthwith to the Requisitioning Officer on the ground that it is necessary for him to retain the same in his/its custody. In such

situations, the Requisitioning Officer should make a written communication to ascertain from the said other officer or authority the approximate time by which the books of account, documents or assets could be handed over. Wherever possible, the said officer or authority should be requested to provide certified true copies of the books of account or documents, or the facility to inspect the same and obtain copies thereof; and inventory of the assets, indicating, *inter alia*, their quantity and value.

- (2) In case, the assets are handed over to the state treasury and a criminal case is lodged by the police authority or other authority, a possibility of making a request to the Court for handing over the assets to the Department based on the requisition should be explored. It may be noted that such communications to the Courts are not to be sent as requisitions u/s 132A of the Act.
- (3) If the said other officer or authority refuses to receive the written requisition or declines to comply with the same, the requisitioning officer should explain to the said officer or authority the relevant legal provisions and advise him to comply with the same. Suitable intervention of higher authorities may also be considered in appropriate cases.
- (4) The authority who has taken into custody books of account, documents or assets may or may not inform the Income-tax authority. A requisition need not always be based on intimations received from other agencies. The Investigation Wing should be proactive in tracking local media reports, periodic exchange of information etc., in order to identify cases fit for requisition proceedings. The Investigation Wing should also maintain a proper line of communication (including providing the details of officers to whom information can be shared) with the relevant authorities in their jurisdiction to receive information in time for necessary inquiries and requisition, if any.
- (5) In case of interception of bullion or jewellery by other authorities at places other than normal place of business, for example at railway stations, a claim is generally made that the same is stock in trade of business. Such a claim requires in-depth examination to ascertain whether the claim is genuine or not. The para 2.26.4 of this manual may also be referred to in this regard.
- (6) In cases of cash interception, it may happen that the intercepted person remains silent and some other person(s) come forward to claim the ownership of the said cash. Such cases require proper verification without losing time to prevent manipulation of books of account, creation of evidences regarding ownership of the cash, etc. The requisition in Form No. 45C should only be in the case of person from whose possession or control such books of account, documents, or assets have been taken into custody by the authorities. It may be kept in mind that provisions of section 132A of the Act are applicable only when books of account, other documents and assets have actually been taken into custody by any officer or

authority under any other law. In case information about interception has been received, without the books of account, other documents and assets being taken into custody, provisions of section 132 of the Act shall apply.

#### **4.5. Applicability of certain provisions of section 132 and 132B of the Act to requisitions**

**4.5.1.** Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (4A) to (14) of section 132 and section 132B of the Act apply, so far as may be, as if-

- (a) such books of account, other documents or assets had been seized under section 132(1) of the Act by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c) of section 132A(1) of the Act; and
- (b) for the words the “authorised officer” occurring in any of the aforesaid sub-sections (4A) to (14) of section 132 of the Act, the words the “requisitioning officer” were substituted.

**4.5.2.** The following powers of an Authorised Officer under section 132 of the Act are, however, not available to the Requisitioning Officer under section 132A of the Act:

- a) **Section 132(2) of the Act:** Requisition services of police officers, or of any officer of the Central Government, or both.
- b) **Section 132(3) of the Act:** Issuing a restraint order where it is not practicable to seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing found during the search
- c) **Section 132(4) of the Act:** Examining on oath, any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing.

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## CHAPTER - 5

### PENALTIES AND PROSECUTIONS IN SEARCH CASES

#### **5.1. Introduction**

Penalties and prosecutions are envisaged for different violations under the Income-tax Act, 1961 (Income-tax Act), Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (BMA, 2015) and Prohibition of Benami Property Transactions Act, 1988 (PBPT Act). Many of such violations are detected during search actions, besides prima facie violations under the Bharatiya Nyaya Sanhitha, 2023 [Indian Penal Code (IPC)] and other laws.

#### **5.2. Reporting mechanism in respect of penalties and prosecutions for violations of Income-tax Act, BMA, 2015 and PBPT Act detected because of the searches**

**5.2.1.** Violations of these laws, detected because of the search, should be reported to the Income-tax authorities concerned so that they could consider appropriate penalties, and/or filing of prosecution complaints. The following significant aspects relating to the reporting mechanism in such cases should be kept in mind:

(1) Where the detected violation prima facie attracts a penalty to be imposed by the Assessing Officer (AO) concerned and/or prosecution to be initiated by the AO, in the facts and circumstances of the case, the matter should be reported to the AO, Range Head, Pr. CIT/CIT concerned, among other things, through Appraisal Reports.

(2) Where the detected violation prima facie attracts a penalty to be imposed by any Income-tax authority other than AO and/or prosecution to be initiated by such Income-tax authority (such as violations of provisions related to TDS), in the facts and circumstances of the case, the matter should be reported to the said Income-tax authority, his supervisory officer and Pr. DIT(Inv.)/Pr. CIT/CIT concerned. If such Income-tax authority is conducting DDIT/ADIT(Inv.) himself/herself, he/she should process the case for prosecution and/or penalty.

(3) Where violations actionable under the PBPT Act are noticed in the searches, relevant details should be shared with the respective Benami Prohibition Unit(s) [BPU(s)].

#### **5.3. Penalties and prosecutions for violations noticed during the searches**

**5.3.1.** During search and seizure actions, Authorised Officers may face several difficult situations, including non-cooperation from the assessee. Very often, there are no solutions immediately available either during the search or during any enquiry being conducted.

**5.3.1.1.** Therefore, the Authorised Officers should be sensitized about the powers available to them under BNS, 2023 (Indian Penal Code) and how to invoke these powers to deal with recalcitrant assessee, in case findings so require. Chapter XIII of BNS, 2023 (Chapter X of

IPC) deals with contempt of Lawful Authority of Public Servant, which includes incidents of refusal to sign a statement, refusing to take oath, refusing to accept/comply with summons and non-implementation of orders by a Public Servant, etc. All such incidents should be reported as soon as possible to the Control room, preferably within 1 hour of the incidence.

**5.3.2.** The first essential ingredient for such a complaint is that the offence should have occurred to a Public Servant as defined in Section 215 of BNSS, 2023 (Section 195(1)(a) of Cr.PC). Since cognizance under Section 215 of BNSS, 2023 (Section 195 of Cr.PC) is to be taken on a complaint in writing for an offence under Section 223 of BNS, 2023 (Section 188) of IPC, the police should not register an FIR under Section 223 of BNS, 2023 (Section 188 of IPC). The Search team should ensure that Police do not register such case under 223 of BNS, 2023 (Section 188 of the erstwhile IPC) and the same is registered under Section 215 of BNSS, 2023 (Section 195 of erstwhile IPC).

**5.3.3.** A first information report, depending on the facts and circumstances of the case may also be filed with the police authorities having jurisdiction under section(s) 206, 208, 221, 222, 223 read with 61(2) of BNS, 2023 (sections 172, 174, 186, 187, 188 read with section 120B of the IPC) in suitable cases. Section 61 of the BNS'2023 (section 120B of IPC) concerns punishment on account of criminal conspiracy. It is not necessary that the complaint is filed by the authorised officer only, and the controlling officer of the Public Servant can also file the complaint, for example, in case of an offence committed against the Authorised Officer, the Joint/Addl. DIT(Inv.) may also file the complaint.

**5.3.4.** Certain illustrations of situations for filing prosecution complaints may include:

| <b>Section</b> | <b>Relevant Statute (BNS'2023)</b> | <b>Offence</b>                                                                                             |
|----------------|------------------------------------|------------------------------------------------------------------------------------------------------------|
| 206 (172)      | BNS (IPC)                          | Absconding to avoid service of summons or other proceeding.                                                |
| 207 (173)      | BNS (IPC)                          | Preventing service of summons or other proceeding, or preventing publication thereof.                      |
| 208 (174)      | BNS (IPC)                          | Non-attendance in obedience to an order from public servant.                                               |
| 209 (174A)     | BNS (IPC)                          | Non-appearance in response to a proclamation under section 84 of Bharatiya Nagarik Suraksha Sanhita, 2023. |
| 210 (175)      | BNS (IPC)                          | Omission to produce document or electronic record to public servant by person legally bound to produce it. |
| 211 (176)      | BNS (IPC)                          | Omission to give notice or information to public servant by person legally bound to give it.               |
| 212 (177)      | BNS (IPC)                          | Furnishing false information.                                                                              |
| 213 (178)      | BNS (IPC)                          | Refusing oath or affirmation when duly required by public servant to make it.                              |

|                                                   |                |                                                                                                                     |
|---------------------------------------------------|----------------|---------------------------------------------------------------------------------------------------------------------|
| 214 (179)                                         | BNS (IPC)      | Refusing to answer public servant authorised to question.                                                           |
| 215 (180)                                         | BNS (IPC)      | Refusing to sign statement.                                                                                         |
| 216 (181)                                         | BNS (IPC)      | False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation. |
| 277                                               | Income-tax Act |                                                                                                                     |
| 217 (182)                                         | BNS (IPC)      | False information, with intent to cause public servant to use his lawful power to injury of another person          |
| 218 (183)                                         | BNS (IPC)      | Resistance to taking of property by lawful authority of a public servant.                                           |
| 219 (184)                                         | BNS (IPC)      | Obstructing sale of property offered for sale by authority of public servant.                                       |
| 220 (185)                                         | BNS (IPC)      | Illegal purchase or bid for property offered for sale by authority of public servant.                               |
| 221 (186)                                         | BNS (IPC)      | Obstructing public servant in discharge of public functions.                                                        |
| 222 (187)                                         | BNS (IPC)      | Omission to assist public servant when bound by law to give assistance.                                             |
| 223 (188)                                         | BNS (IPC)      | Disobedience to order duly promulgated by public servant.                                                           |
| 224 (189)                                         | BNS (IPC)      | Threat of injury to public servant.                                                                                 |
| 225 (190)                                         | BNS (IPC)      | Threat of injury to induce person to refrain from applying for protection to public servant.                        |
| 241 (204)                                         | BNS (IPC)      | Destruction of document or electronic record to prevent its production as evidence.                                 |
| 230 (194)                                         | BNS (IPC)      | Giving or fabricating false evidence with intent to procure conviction of capital offence.                          |
| 228 (192)                                         | BNS (IPC)      | Fabricating false evidence.                                                                                         |
| 229 (193)<br>(r.w.s. 136 of<br>Income-tax<br>Act) | BNS (IPC)      | Punishment for false evidence.                                                                                      |
| 233 (196)<br>(r.w.s. 136 of<br>Income-tax<br>Act) | BNS (IPC)      | Using evidence known to be false.                                                                                   |
| 275A                                              | Income-tax Act | Contravention of order made under the second proviso to section 132(1) or section 132(3) of Income-tax Act          |
| 275B                                              | Income-tax Act | Failure to comply with the provisions of section 132(1)(iib) of Income-tax Act                                      |

|      |                |                                                     |
|------|----------------|-----------------------------------------------------|
| 277  | Income-tax Act | False statement in verification, etc.               |
| 277A | Income-tax Act | Falsification of books of account or document, etc. |

**5.3.5.** Penalties are also provided under the provisions of the Income-tax Act, 1961;

|               |                      |                                                                                                                                             |
|---------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 272 A (1)(a)  | Income-tax Act, 1961 | Refuses to answer any question put up by the Income-tax authority in the exercise of powers under the Act                                   |
| 272 A (1) (b) | Income-tax Act, 1961 | Refuses to sign a statement made by him during proceedings under the Act                                                                    |
| 272 A (1) (c) | Income-tax Act, 1961 | Omits to attend to give evidence or produce books of account or other documents in response to a summon issued under section 131 of the Act |

**5.3.6.** In cases of violations mentioned above, a private complaint under section 215 of BNSS, 2023 (section 195 of Cr.PC) which deals with ‘Prosecution for contempt of the lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence’, can also be filed. Such complaints are not registered through FIR by the police, but the Officer/Public Servant against whom the offence has been committed himself files a complaint before the Magistrate.

**5.3.7.** Where such violations are noticed during the searches by an Authorised Officer, he/ she should report the matter to the Control Room/Conducting Unit, and further action in this regard should be taken in consultation with the Control Room/Conducting Unit. The leader of the search team should also mention these facts in his report to the conducting Unit Head concerned, which is required to be submitted to the Control Room at the time of handing over of the seized/impounded material and related folders.

**5.3.8.** Depending upon the facts and circumstances of each case and taking into consideration the nature of violations, such prosecution complaints may generally be filed either by the Authorised Officer(s) present at the respective premises before whom the offence was committed or by the conducting DDIT/ADIT(Inv.). However, the Conducting Unit Head concerned should identify the authorities who may file prosecution complaint(s) for such violations. He/she may do so with appropriate legal consultations, if needed.

**5.3.9.** The procedure for identification and processing of cases for prosecution under Direct Tax laws has been prescribed in [CBDT circular no. 24 of 2019 issued vide F.No 285/08/2014-IT\(Inv.V\)/349 dated 09.09.2019](#), [F.No 285/08/2014-IT\(Inv.V\)/351 dated 09.09.2019](#), [F.No 285/08/2014-IT\(Inv.V\)/155 dated 27.06.2019](#). Guidelines issued by CBDT in prosecution

matters as contained in the Prosecution Manual, and instructions/ guidelines/ circulars issued thereafter should also be followed.

**5.3.10.** The Authorised Officer should be encouraged and advised to record irregularities, like acts of non-compliance/obstruction created by the persons searched or other person(s) at their behest that may have occurred during the search, in the panchnama. Such untoward incidents may be duly recorded in the panchnama along with a supporting report, which is to be duly attested by the witnesses/panchas. This will facilitate the launching of prosecution under BNS, 2023 (IPC) at a later stage.

**5.4. Penalties and Prosecutions for violations of other laws noticed as a result of the searches/ during the searches**

5.4.1. As mentioned in the Chapters on ‘Conduct of search and seizure operations’ and ‘Post search actions and proceedings’, violations of laws/rules administered by other LEAs may also be detected because of the searches. In these cases, relevant details should be shared by conducting DDIT/ADIT(Inv.), following due procedure and after taking necessary approvals, with the LEAs concerned to enable them to take appropriate action in these cases, which may include penalties and/or prosecutions under their respective laws/rules. The procedure for sharing information is referred to in Chapter 9 of this manual. The provisions of section 138 may be duly followed for sharing of information. Also, while sharing information with the LEAs, it may be kept in mind that such sharing does not lead to jeopardizing the ongoing investigations under laws administered by the CBDT, especially in cases which are in premature stage of investigation or are sensitive in nature requiring detailed investigation before arriving at the conclusion of the same.

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## CHAPTER - 6

### INVESTIGATION OF UNDISCLOSED FOREIGN ASSETS/ INCOME CASES

#### 6.1. Introduction

**6.1.1.** The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ('**BMA, 2015**') and Income-tax Act, 1961 provide a legal framework for investigation, assessment, penalties, prosecutions, etc. in cases of undisclosed foreign assets and/or income. CBDT issued specific guidelines and instructions in the past on various aspects of the subject matter. For effective implementation of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, and efficient handling of the cases under this Act, 29 Foreign Assets Investigation Units have been set up under the Directors General of Income Tax (Investigation) all across India.

**6.1.2.** Various notifications have been issued by the CBDT assigning powers and functions to different authorities under the BMA, 2015. These notifications are as under:

(1) [Notification No. 73/2015/F.No.187/13/2015-ITA.I dated 24th August 2015](#): This notification, issued under clause (b) of sub-section (4) of section 120 of the Income-tax Act, 1961 read with section 6 and section 84 of the BMA, 2015 by the CBDT **directed the Addl./Joint Commissioners of Income Tax**, referred as the Regular Assessing Officer, as the case may be, to exercise the powers and perform the functions of the Assessing Officers under the BMA, 2015 in respect of cases under their jurisdictions.

(2) [Notification No. 39/2017/F.No.187/13/2015-ITA-I dated 16th May 2017](#): The CBDT vide this notification, authorized the Director General of Income-tax(Inv.) or Principal Director or Director of Income-tax(Inv.) **to assign the concurrent jurisdiction of an Assessing Officer to an Assistant Director of Income-tax(Inv.) or Deputy Director of Income-tax(Inv.)** who are subordinate to them, in respect of cases or class of cases falling within the territorial areas as specified therein.

(3) [Instruction F. No.225/24/2021-ITA-II dated 23.02.2021](#): The CBDT issued a fresh instruction [F. No.225/24/2021fITA-II, dated 23.02.2021](#), whereby it was clarified that the **jurisdiction over the Black Money will be exercised by the Central Charges, except those cases where jurisdiction is being exercised by the ADIT (Inv.)/DDIT(Inv.) under the BMA, 2015**. On completion of assessment by the ADIT (Inv.)/DDIT(Inv.), cases are to be transferred to the concerned DCIT/ACIT (Central Circle) who will complete the post-assessment proceedings including collection of demand, penalty proceedings, prosecution, etc.

(4) Thus, for the purposes of this chapter, the term Assessing Officer (AO) means ADIT(Inv.)/DDIT(Inv.)/Addl. CIT (Central)/JCIT(Central).

(5) Instruction issued [dated 24<sup>th</sup> March 2021 vide F. No.225/24/2021-ITA-II](#): Through the instruction it was specified that all the cases which are fit for initiation of proceedings under

the BMA, 2015 on the basis of information in the possession of the Jurisdictional Income-tax Authorities shall also be transferred to the respective Central Charges.

## **6.2. Guidelines for handling cases under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015**

**6.2.1.** In this regard, attention is invited to the CBDT's '*Guidelines for handling cases under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015*' issued vide **letter dated 23<sup>rd</sup> January 2018 in F.No.414/134/2015-IT(Inv. I) (Pt.)**. These guidelines deal with various facets of actions under the BMA, 2015, including the stage of assigning concurrent jurisdiction of the Assessing Officer to the DDIT/ADIT concerned, time limit for issuance of notice u/s. 10(1), stage of sharing information with the Enforcement Directorate for action under PMLA, references/requests to relevant foreign jurisdictions, show cause notice and assessment order, prosecutions under BMA, 2015, etc.

**6.2.2.** Paragraph 2.3. of the guidelines discuss the charging Section 3 of BMA, 2015 stating that every assessee for every assessment year commencing on or after the 1st day of April, 2016, subject to the provisions of this Act, **a tax in respect of his total undisclosed foreign income and asset of the previous year** at the rate of thirty per cent of such undisclosed income and asset. Further, the proviso of the Section 3 of the BMA, 2015 also discussed that the previous year of an **undisclosed asset** located outside India **shall be the previous year in which such asset comes to the notice of the Assessing Officer**.

## **6.3. Manual on Exchange of Information 2015**

The attention of the officers dealing with the cases of undisclosed foreign income/ assets is also invited to the 'Manual on Exchange of Information 2015' issued by the FT&TR Division of CBDT, which deals with various aspects pertaining to exchange of Information under Double Taxation Avoidance Agreements (DTAAs), Tax Information Exchange Agreement (TIEAs), other multilateral instruments, and other legal instruments such as MLAT, Egmont framework, etc. For the purpose of exchange of Information under DTAAs/TIEAs/other multilateral instruments, the Competent Authorities are JS(FT&TR)-I, CBDT and JS (FT&TR)-II, CBDT, for the respective jurisdictions assigned to them. Concerning requests for information under MLAT and the Egmont Framework (through FIUs), the nodal authority is Director (Inv. I), CBDT and Director (Inv. IV), CBDT, respectively.

## **6.4. When an assessment proceeding under Section 10 of the BMA, 2015 could be initiated**

**6.4.1.** A combined reading of the provisions of section 3 (Charge of tax) and section 10 (Assessment) of the BMA, 2015 suggests that the assessing officer (for assessing officer, refer to Paragraph 6.1.2.iv) could initiate the proceedings under section 10 of the BMA, 2015 on receipt of information of prima facie undisclosed foreign asset/income. Such information could be about foreign bank accounts, property, investment, financial interest in an Offshore entity,

beneficial ownership of foreign assets/income, etc. and should have linkage with the person under investigation as per provisions of the BMA, 2015.

**6.4.2.** It may be noted that intelligence on undisclosed foreign asset/income which is received/from/through FIU, CRS/FATCA, informant, TEP, VIP reference, public domain information [such as media, websites (including ICIJ website), etc.] and information gathered during search/survey/other investigation of third person is in the nature of intelligence only and this may not form the sole basis for issuance of notice under section 10(1) of the BMA, 2015.

**6.4.3.** However, based on such intelligence, enquiries may be initiated under relevant provisions of the Income-tax Act, 1961 or under Section 8 of the BMA, 2015, if deemed fit, without delay with a view to collect relevant information for issuance of notice under section 10(1) of the BMA, 2015 to the assessee and/or for other proceedings under the BMA, 2015.

#### **6.5. Stage of forwarding Investigation Report/Appraisal Report to AO for action under BMA, 2015**

**6.5.1.** Whenever, as a result of an investigation conducted in a foreign asset/ income case, DDIT(Inv.)/ADIT(Inv.) is in possession of 'information' as mentioned above, and such information has prima facie linkage with the assessee under the BMA, 2015, he/she would include these facts and evidence in the Investigation / Appraisal Report and forward it at the earliest possible, with the approval of Pr. DIT(Inv.) concerned to the concerned AOs under BMA, 2015 along with relevant material gathered in this respect to enable the AO to take appropriate action such as assessment, penalties and prosecutions under the BMA, 2015. Also, if any further investigation is required, reference may be sent to FAIU with the prior approval of Pr.DIT(Inv.).

**6.5.2.** Wherever the DDIT/ ADIT(Inv.) is in possession of the information showing prima facie linkage of such information with the assessee, preparation and forwarding of such Investigation / Appraisal Report should be expedited without waiting for a logical conclusion of domestic issues not relevant for action under the BMA, 2015 so that the assessing officer (for assessing officer, refer to Paragraph 6.1.2.iv) can initiate and expedite action under the BMA, 2015, independently.

#### **6.6. Time limit for issuance of notice under section 10(1) of BMA, 2015**

Though no statutory time limit for issuance of notice under section 10(1) is specified under BMA, 2015, the AO should issue the notice to the assessee at the earliest possible. However, if the notice is not issued within a period of 30 days from the end of the relevant previous year (for previous year, refer to Paragraph 6.2.2. above and Section 3 of BMA, 2015), the reason thereof should be recorded in writing by the AO, to be duly approved by the Pr. DIT (Inv) /Pr. CIT concerned.

## **6.7. Stage of sharing information with the Directorate of Enforcement (ED) for action under the Prevention of Money-laundering Act, 2002 (PMLA, 2002)**

**6.7.1.** Section 88 of the BMA, 2015 has included the offence of wilful attempt to evade any tax, penalty or interest referred to in section 51 of the BMA, 2015 as a Scheduled offence for the purposes of PMLA, 2002, which may lead to separate action under PMLA, 2002, besides action under the BMA, 2015. In this context, pursuant to the information leading to the issuance of notice under section 10(1) of BMA, 2015 to the assessee, where the concerned assessing officer is of the opinion that ingredients of Section 51 of the BMA, 2015 are *prima facie* satisfied, he should submit a note to Pr.DIT/Pr. CIT/CIT concerned, through proper channels, clearly bringing out relevant facts and evidence for such *prima facie* satisfaction for initiation of proceedings under section 51 of the BMA, 2015.

**6.7.2.** Thereafter, taking into consideration relevant aspects and available evidence, if Pr. CIT/Pr. DIT (Inv.) concerned is also of the opinion, to be recorded in writing, that all ingredients of Section 51 of BMA, 2015 are *prima facie* satisfied in the case, the Pr. CIT/ Pr. DIT(Inv.) should share relevant facts and evidence, to the extent permissible under laws, which include confidentiality usage obligations under DTAA/TIEA/Other Legal Instruments, with the ED at the earliest possible for appropriate action under PMLA, 2002.

**6.7.3.** In this context, information received under the tax treaties with foreign jurisdictions **may be shared only in accordance with the treaty provisions and conditions and directions contained in the Board's letter [dated 19.07.2022 vide F. No. 414/118/2022-IT\(Inv. I\)](#).**

## **6.8. Proper and prompt references to relevant foreign jurisdictions**

**6.8.1.** Once investigation is initiated in an undisclosed foreign asset/ income case, proper reference(s) for request of information, if any, should be made under available tax treaties/legal instruments to relevant foreign jurisdiction(s) at the earliest possible, like the EoI requests/ MLAT/LR/Egmont. The reference for information request is required to be submitted to the Indian Competent Authority (FT&TR Division), and it should be ensured that no direct communication is made with any foreign competent authority. Follow-up references, if any, pursuant to receipt of information should also be made at the earliest possible through the Competent Authority. It may be noted that there is now a dedicated facility on ITBA for exchange of information.

**6.8.2.** Where any supplementary information/ clarification in relation to a reference already made to a foreign jurisdiction is sought by the FT&TR Division or the Foreign Competent Authority, the same should be made available in an expeditious manner to the FT&TR Division. If the clarification is not provided promptly, it may lead to delays in receipt of information attributable to India, and the foreign competent authority may also lose interest in the case. In many cases, the foreign Competent Authorities mark such requests as 'Closed' for want of clarifications, thus depriving India of valuable information that could have facilitated investigation/assessment.

**6.8.3.** The Addl. DIT(Inv.)/Addl. CIT/JDIT(Inv.)/JCIT concerned should ensure that clarifications sought by the Foreign Competent Authorities are provided at the earliest to the FT&TR Division and the Pr. DIT/Pr. CIT concerned should monitor this aspect on a periodic basis. While forwarding the clarifications, care should be taken to fully address the specific queries made by the Foreign Competent Authority, detailing all relevant facts/clarifications. The Pr. CIT/Pr. DIT concerned should not merely forward the reports of the authorities below but should ensure the compilation of a comprehensive, self-contained reply to the queries and forward the same under his own signature to the FT&TR Division. Such a reply will enable the Foreign Competent Authority to provide a complete and relevant response to the information request. Needless to state that, only relevant information should be requested from foreign jurisdictions that meet the requirements of foreseeable relevance as prescribed in the applicable exchange of information instrument.

**6.8.4.** In search and seizure cases, the responsibility to make requests to foreign jurisdictions and follow-up action thereof, wherever required, lies with the Pr. DIT(Inv.) concerned till the forwarding of the Appraisal Report to Central Charge. Once the Appraisal Report is forwarded to the Central Charge, the responsibility in this regard lies with the Pr. CIT concerned, if the concurrent jurisdiction of the case has not been assigned to the DDIT(Inv.)/ADIT(Inv.). After receipt of the Appraisal Report, the Pr. CIT concerned would take up these matters, including the follow-up action on requests for EOI made earlier by the Investigation Directorate. The Investigation Directorate should forward a copy of all the EOI requests made by them and replies received to the assessment charge along with the Appraisal Report, giving a brief note including the background of making the requests and a note on the status of information received/request made and follow up required, if any.

**6.8.5.** It may be noted that information received under a tax treaty is to be used for tax purposes only, and consequently, the same should not be shared with other LEAs such as ED, CBI, etc. However, the same can be shared with ED and other LEAs after prior specific consent of the sharing foreign jurisdiction in this respect, for which a separate proposal/request should be sent to the FT&TR Division, who in turn may seek the consent of the respective foreign jurisdiction and further action should be taken in accordance with the response of that foreign jurisdiction. In this context, Board's letter [F. No. 414/118/2022-IT\(Inv I\) dated 19.07.2022](#) may be referred to.

**6.8.6.** Maintaining the confidentiality of information received under the provisions of tax treaties is a legal requirement under the said treaties, and necessary precautions should be taken by the officers handling such information so that confidentiality of the information received is not breached. It may be noted that any breach may seriously impact our ability to receive information in other cases. The relevant applicable guidelines on maintaining confidentiality provided in the EOI Manual and instructions regarding Information Security Policy (CISO [Instruction No. 2 of 2020 dated 27.11.2020 vide F. No. 500/62/2015-FT&TR-III](#) and [CISO Instruction No. 1 of 2023 dated 17.03.2023 vide F. No. Dir\(Hqrs.\)/Ch.DT/07\(76\)/2022](#)) should be followed by all the officers who handle the information exchanged under the treaties.

The CCIT/DGIT concerned must sensitise the officers in their region on the requirements of maintaining confidentiality.

**6.8.7.** It is essential that the information received under the tax treaties is examined by the officers making the request in the first place, and it is ascertained whether full and complete information has been received. In case full and complete information is not received, the matter needs to be taken up immediately with the FT&TR Division. After the information has been utilised, feedback is required to be submitted to the FT&TR Division who in turn may be required to provide feedback to the foreign competent authority in appropriate cases. The Pr. CIT/Pr. DIT concerned should accordingly provide both initial feedback and feedback after completing the assessment/investigation/other proceedings. The feedback helps foster a healthy relationship between two competent authorities, and the Indian competent authority gets an occasion to appreciate the assistance provided by other competent authorities and helps in a better peer review of India by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

#### **6.9. Show cause notice and assessment order**

Considering the objectives of the BMA, 2015, the assessment should be completed at the earliest. Before passing the assessment order, show cause notice should be issued by the assessing officer (for assessing officer, refer to Paragraph 6.1.2.iv). Thereafter, upon receipt of the assessee's reply or expiry of the time allowed in the show cause notice, whichever is earlier, the AO should pass the assessment order without any delay. Needless to state, sufficient time should be provided to the assessee to file a response to the queries, if any. Further, the assessment order should contain relevant facts about the undisclosed foreign asset/income. It is reiterated that reference to the appraisal report or the survey report should not be mentioned in the assessment order.

#### **6.10. Prosecution complaint under section 51(1) of BMA, 2015**

**6.10.1.** Completion of assessment is not a pre-requisite for initiating criminal prosecution proceedings for the offence of wilful attempt to evade tax, etc. under section 51(1) of the BMA, 2015. Thus, appropriate cases may be processed for filing of prosecution complaints under section 51(1) of the BMA, 2015 after completion of due inquiries and upon fulfilment of all the ingredients of section 51(1) of the BMA, 2015, at the earliest possible.

**6.10.2.** The concerned assessing officer (for assessing officer, refer to Paragraph 6.1.2.iv) may prepare a proposal in this regard, incorporating relevant facts and evidence, and submit the same to the respective Pr.DIT(Inv.)/Pr. CIT (Central), through proper channel. The Pr. DIT (Inv.)/Pr.CIT (Central) concerned should convey his response in a reasonable time. Needless to state, the sanction should be given after due consideration of the facts of the case, and such facts should be recorded in the sanction given by the Pr. DIT(Inv.) /Pr.CIT (Central) so that the same demonstrates due application of mind by the sanctioning authorities. Where the Pr. DIT (Inv.)/Pr.CIT (Central) accords sanction for filing of the prosecution complaint under section 51(1) of the BMA, 2015, the AO concerned should file the prosecution complaint before the

competent court without any delay. Where a case is not found fit for filing of prosecution complaint under section 51(1), reason/finding to this effect should be recorded in writing by the Pr.DIT (Inv.)/Pr. CIT (Central) concerned.

**6.10.3.** Where the Pr.DIT/ Pr.CIT considers it necessary to seek legal opinion in a case before according sanction or otherwise, the process of legal consultation should be completed within shortest possible time.

#### **6.11. Prosecutions under other sections of the BMA, 2015**

The above guidelines with reference to process and timelines in respect of prosecution under section 51 (1) of BMA, 2015, are also applicable for prosecutions under other sections of BMA, 2015.

#### **6.12. Intimation of prosecution under section 51 of BMA, 2015 to ED**

The AO should intimate the Directorate of Enforcement (ED) about particulars (name of the person, complaint number, date of filing prosecution, court) of filing prosecution complaint under section 51 of BMA, 2015 at the earliest possible. As the prosecution complaint may contain information received under tax treaties and/or other international legal instruments (which have confidentiality and usage obligations), copy of such complaints should not be shared with ED, unless the sharing foreign jurisdiction has specifically permitted for such sharing. The relevant instructions regarding sharing of Information with ED authorities issued vide [F. No. 414/118/2022-IT\(Inv. I\) dated 19.07.2022](#) and also as per the ML-I and ML-II formats, as specified in CBDT's letter [dated 23.03.2022 vide F.No. 414/67/2019-IT \(Inv. I\) \(Pt\)](#) should be followed.

#### **6.13. Penalties under BMA, 2015**

The AO may initiate and pass appropriate penalty orders at the earliest possible without waiting for the time barring date and/or disposal of appeals, etc.

#### **6.14. CRS-FATCA Cases**

CBDT has issued a detailed SOP for handling CRS and FATCA data for field formations [[F. No. 414/11/2022/IT\(Inv. I\) dated 07.04.2022](#)]. The SOP lays down the steps for conduct of proceedings under the Income-tax Act and/or the BMA, 2015 in respect of CRS/FATCA cases. The ADIT/DDIT(Inv.) may refer to this SOP for guidance while investigating the CRS/FATCA cases. Further, through [OM dated 21<sup>st</sup> May, 2025 issued in F. No. 40/427/03/2025-IT\(Inv. VI\)/148](#), the Paragraph 9.3 (Paragraph 9 discusses role of supervisory authorities and closure of CRS/FATCA cases) of the SOP issued vide [F. No. 414/11/2022/IT\(Inv. I\) dated 07.04.2022](#) has been amended.

### **6.15. Periodical review by supervisory authorities**

Pr. DIT(Inv.)/Pr. CIT (Central) concerned should periodically review all the cases of foreign assets/income under investigation, assessment, penalty and prosecution w.r.t. material stages and also follow up with FT&TR for expediting response on references/requests made to foreign jurisdictions. DGIT(Inv.)/CCIT(Central) concerned should also review periodically all the cases of undisclosed foreign assets/ income under investigation, assessment, penalty and prosecution w.r.t. material stages and guide the sub-ordinate authorities for expediting the same. The field of exchange of information and implementation of BMA, 2015 is a relatively new area for the tax authorities, and therefore the constant involvement of the supervisory authorities with the AO will help build proper capacity in the field formation.

### **6.16. Undisclosed foreign assets/income detected by officers other than those of Investigation Directorates**

Outcome of such enquiries should be sent to the AO concerned for appropriate action under the BMA, 2015. [Instruction issued dated 24<sup>th</sup> March 2021 vide F. No.225/24/2021-ITA-II](#) may be kept in mind through which it was specified that all the cases which are fit for initiation of proceedings under the BMA, 2015 on the basis of information in the possession of the Jurisdictional Income-tax Authorities shall also be transferred to the respective Central Charges.

### **6.17. Spontaneous exchange of information with Foreign Competent Authority**

Under the provisions of the DTAAs and Multilateral Convention, the Indian Competent Authority may provide information on a spontaneous basis if there is evidence available in India that a person has not paid the due taxes in the foreign country/jurisdiction. Presently, this provision is not widely used but is an effective tool to prevent global tax evasion and avoidance. Further, if we provide information on a spontaneous basis to our treaty partners, we may expect reciprocal assistance from them also. Thus, during an investigation by the Investigation Wing or the assessment, if some information which may be of relevance to foreign tax authorities comes to the notice of the officer concerned, the said information may be sent to the Indian Competent Authority through the Pr. CIT/Pr. DIT(Inv.) concerned.

### **6.18. Tax Examination Abroad, Simultaneous examination and/or Joint Audits**

**6.18.1.** Tax Examination Abroad is another form of administrative assistance and is possible under most tax treaties, including DTAAs, TIEAs, Multilateral Conventions and SAARC Agreement. Tax examination abroad allows for the possibility to obtain information and assistance through the presence of representatives of the Competent Authority of the requesting Contracting State. The DDIT(Inv.)/ADIT(Inv.)/Addl.CIT(Central)/JCIT(Central) may consider utilising this provision in appropriate cases. For further details, the EOI manual and the Guidelines for conducting Tax Examination Abroad as per the Module on “Tax Examination Abroad”, in the OECD’s Manual on Exchange of Information may be referred.

**6.18.2.** In cases, where a request is required to be made for **Tax Examination Abroad**, the Pr.CIT(Central)/Pr.DIT(Inv.) concerned should make a reference to the Indian Competent Authority with a copy to the CCIT/DGIT concerned. While making the request, full details of the case should be given, including (a) Reasons and motives for the request for Tax Examination Abroad (b) reasons why the physical presence of their tax official(s) is required (c) details of the specific issues requested to be examined (d) details of the preferred timing of the tax examination and any other details that may be applicable in the nominated case.

**6.18.3.** Similarly, a request for **Simultaneous Examination** may also be made through the office of the Competent Authority by Pr. CIT(Central)/Pr. DIT(Inv.) with a copy to the CCIT/DGIT concerned. A simultaneous examination is an arrangement between two or more parties to examine simultaneously, each in its own territory, the tax affairs of a taxpayer(s) in which they have a common interest or related interest, with a view to exchanging any relevant information which they may so obtain. This may be useful in cases of scrutiny assessment of multinational corporations having operations in different countries or in transfer pricing audits.

**6.18.4.** In cases, where a request is required to be made for **Joint Audit**, the Pr.CIT/Pr.DIT concerned should make a reference to the Competent Authority, with a copy to the CCIT/DGIT concerned. While making the request, full details of the case should be given, including (a) Taxpayer name and address (b) PAN (c) Taxpayer's business sector and activities (d) Details of pending proceedings under the Income-tax Act (e) Reason/justification for simultaneous audit selection (f) Audit plan (g) Previous exchange of information, if any: (reference numbers, date), (h) Any other relevant information

## **6.19. Other Legal Instruments to seek assistance from foreign jurisdictions**

**6.19.1.** Information and other forms of assistance can also be requested through Mutual Legal Assistance Treaties (MLATs) through the Ministry of Home Affairs, particularly with countries/jurisdictions with which there is no tax treaty. Information/evidence obtained through MLATs can also supplement the information received under tax treaties when a criminal complaint is made for tax evasion on the basis of information received under tax treaties.

**6.19.2.** Under MLAT, the exchange of information takes place between authorities designated as 'Central Authority' in the requesting and requested state. In India the 'Central Authority' is the Joint Secretary, Internal Security Division-II, Ministry of Home Affairs. For the purpose of MLAT, the Nodal Officer in CBDT is the Director/Dy. Secretary (Investigation-I), CBDT. Requests under the MLAT should be sent by the Pr. CIT/Pr. DIT concerned to the Nodal Officer in CBDT who, after examining the request, will forward it to the Central Authority in MHA. No request should be sent directly to the MHA. It may be noted that there is now a dedicated [online portal](https://mlat.mha.gov.in/login.aspx) by MHA for making such requests [https://mlat.mha.gov.in/login.aspx]

**6.19.3.** Information can also be obtained through Egmont Group of Financial Intelligence Units (FIUs) which may be further supplemented by making further requests under tax treaties/MLATs. The Egmont Group is the network of FIUs established with a view to have international cooperation, including information exchange in the fight against money

laundering and financing of terrorism. The FIUs of the group exchange information in accordance with Egmont Principles for Information Exchange and Operational Guidance for FIUs, which is available on the Internet. The tax authorities may request information available with FIUs of other countries through FIU-IND (the Indian FIU) using the information exchange mechanism of the Egmont Group.

**6.19.4.** For sending a request for information to the Egmont Group, the Nodal Officer in CBDT is the Director/Deputy Secretary (Investigation-IV), CBDT. Requests in this regard should be sent by the Pr. CIT/Pr. DIT concerned to the Nodal Officer in CBDT who, after examining the request, will forward it to FIU-IND. No request should be sent directly to the FIU-IND.

#### **6.20. Chain of Custody**

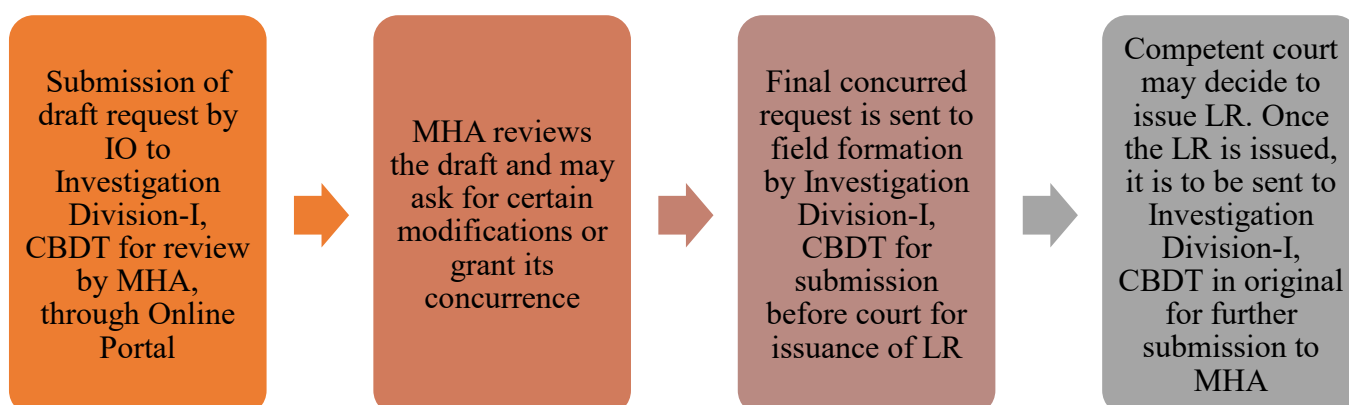
Chain of custody is a chronological paper trail documenting when, how and by whom specific items of physical or electronic evidence were collected, handled, analysed or otherwise controlled during an investigation. For the information/documents received under the tax treaties/other legal instruments such as MLAT, important aspects of the chain of custody in the context of evidence should be kept in mind, and appropriate documentation should be maintained with a view to proving the integrity of evidence. In this regard, reference may also be made to the [OM dated 19<sup>th</sup> July, 2024 issued Vide F. No. 414/84/2024-IT\(Inv. I\)](#) with subject 'Guidance note for dealing with information received under tax treaties as Evidence under the newly introduced Bharatiya Sakshya Adhiniyam (BSA), 2023, which inter-alia contains Annexure – B wherein a format for Chain of Custody has been specified.

#### **6.21. Letters Rogatory (LR)**

**6.21.1.** The term 'Letters Rogatory' is derived from the Latin term rogatorius. Letters Rogatory are the letters of request sent by the Court of one country to the Court of another country for obtaining assistance in investigation or prosecution of a criminal matter. In India, Section 112 and 123 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (Section 166A and Section 105K of Code of Criminal Procedure, 1973 (CrPC), respectively), Section 57 and Section 61 of Prevention of Money Laundering Act, 2002 (PMLA), Section 12 of Fugitive Economic Offenders Act, 2018 (FEOA), etc., lays down the procedure of sending 'letter of request' through Competent Court on the request of Investigating Officer. The procedure for execution of a request received from the foreign Court or Competent Authority has been enshrined in Section 113 and 123 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (Section 166B and section 105K of CrPC respectively), Section 58 of PMLA, etc. In general, the assistance sought under Letters Rogatories is for service of documents and taking of evidence. Letters Rogatory may be made to any country based on Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention or on the basis of assurance of reciprocity.

### 6.21.2. Procedure for LRs-

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Step 1</b> | <b>Drafting of Request by Investigating Officer or Agency and transmitting it to IS-II Division, MHA through Investigation Division-I, CBDT. Attention is also drawn to <a href="#">OM dated 8<sup>th</sup> July, 2024 issued vide F. No. 414/100/2024-IT(Inv. I)(Pt. I)</a></b> wherein it has been informed that the profiles of all PDsIT(Inv.)/PCsIT(Central) has been created as Investigating Office (IO) on the online MLAT portal. This will enable the field formation to move the proposals for MLAT/LR requests through the online portal which is mandatory as per MHA Guidelines. |
| <b>Step 2</b> | <b>Presenting the concurred request before the Court</b><br><br>After obtaining the concurrence of the IS-II Division, MHA for presenting the request before the Court, the Investigating Officer files an Application in the court of competent jurisdiction for issuing of LR addressed to the Competent Authorities of the Requested Country.                                                                                                                                                                                                                                               |
| <b>Step 3</b> | <b>Court to issue LR under relevant law i.e., BNSS, 2023, CrPC, PMLA, FEOA, etc.</b><br><br>The Competent Court may decide to issue a LR addressed to the Competent Authority in the Requested Country as prayed for or otherwise. If the Court is satisfied with the request, it will issue LR under its seal and authority.                                                                                                                                                                                                                                                                  |
| <b>Step 4</b> | <b>Transmission of LR through Investigation Division-I, CBDT to MHA</b><br><br>Once the LR is issued by the Competent Court, three copies of the request shall be sent to Investigation Division-I, CBDT which will in turn send the request to the AD (IPCC), CBI and one copy to IS-II Division, MHA. AD (IPCC), CBI will take the forwarding letter from IS-II Division, MHA and then send it directly to the Central Authority of the country concerned or through Indian Mission/Embassy/Diplomatic Channels as the case may be under intimation to the Central Authority of India.       |



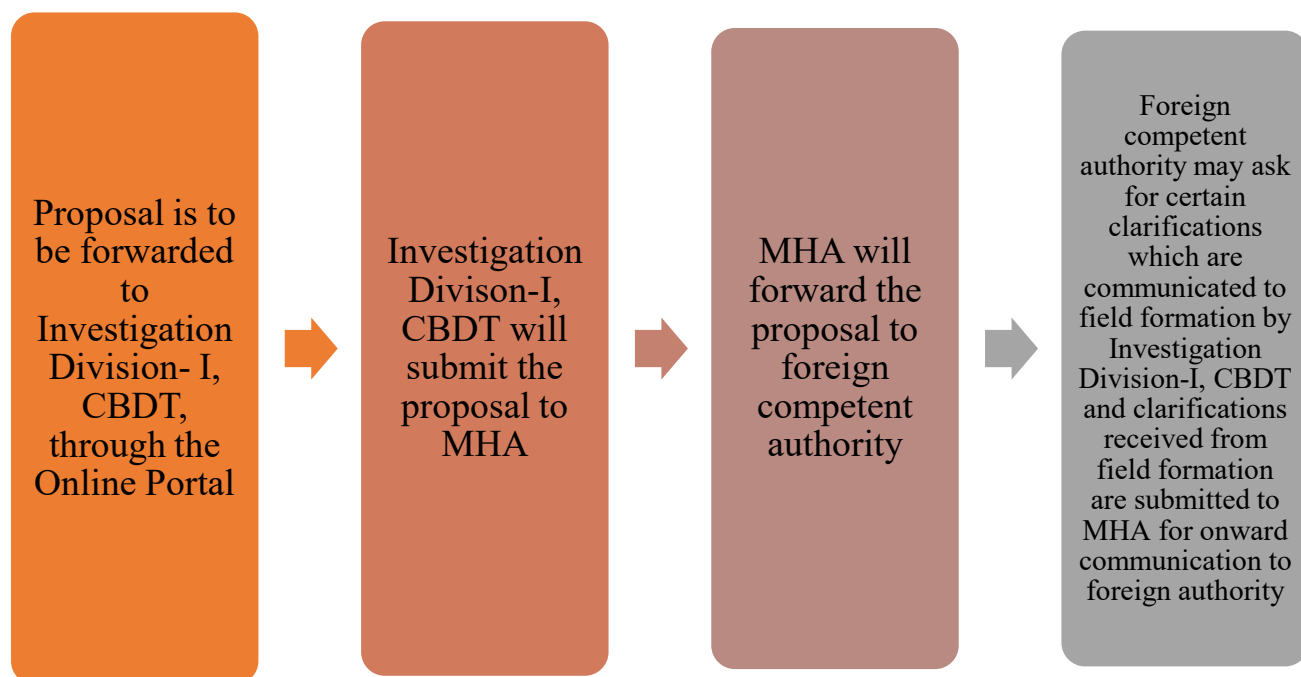
## 6.22. Mutual Legal Assistance in Criminal Matters

Mutual Legal Assistance is a mechanism whereby countries cooperate with one another in order to provide and obtain formal assistance in prevention, suppression, investigation and prosecution of crime to ensure that the criminals do not escape or sabotage the due process of law for want of evidence available in different countries. Mutual Legal Assistance could be either in Criminal matters or Civil & Commercial matters. As per Allocation of Business Rules of the Government of India, Ministry of Home Affairs is the nodal Ministry and the Central authority for seeking and providing mutual legal assistance in criminal law matters and Department of Legal Affairs is the nodal authority for mutual legal assistance in civil & commercial matters. India provides mutual legal assistance in criminal matters through Bilateral Treaties/Agreements, Multilateral Treaties/Agreements or International Conventions. The Mutual Legal Assistance Treaties (MLATs) in criminal matters are the bilateral treaties, entered between the countries for providing international cooperation and assistance. India has entered into Mutual Legal Assistance Treaties/Agreements with 42 countries (November 2019). The comprehensive guidelines issued by MHA in connection with MLA/LR can be accessed on [https://www.mha.gov.in/sites/default/files/2022-08/ISII\\_ComprehensiveGuidelines16032020.pdf](https://www.mha.gov.in/sites/default/files/2022-08/ISII_ComprehensiveGuidelines16032020.pdf).

Mutual Legal Assistance Request in the Indian context is a formal request made by the Central Authority of India i.e., Ministry of Home Affairs to the Central Authority of another country on the request of Investigating Officer or Agency under any Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention.

## Procedure for forwarding MLA requests

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Step 1</b> | <p>Forwarding the information to the Central Authority of India (Field formation to send the proposal to Investigation Division-I, CBDT for onward submission to MHA).</p> <p>The Investigating Agency or State Government/UT forwards a self- contained proposal with the recommendation of DOP/Law Officer and approval by Director/State Government to IS-II Division, MHA. (The documents to be attached with the MLA Request are same as that required to be sent with the LR Request).</p> <p><b>Attention is also drawn to <a href="#">OM dated 8<sup>th</sup> July, 2024 issued vide F. No. 414/100/2024-IT(Inv. I)(Pt. I)</a></b> wherein it has been informed that the profiles of all PDsIT(Inv.)/PCsIT(Central) has been created as Investigating Office (IO) on the Online MLAT Portal. This will enable the field formation to move the proposals for MLAT/LR requests through the Online Portal which is mandatory as per MHA Guidelines.</p> |
| <b>Step 2</b> | <p><b><u>Issue of Request by Central Authority</u></b></p> <p>The IS-II Division, MHA examines and compares the draft along with the relevant documents and prepares an MLA Request. The MLA request is signed by the officer designated at IS-II Division, MHA and is transmitted along with a forwarding letter to the Central Authority of the Requested Country.</p> <p>Whenever the request is directly transmitted to the Central Authority of the Requested Country, the Embassy of India or the High Commission of India (whichever is applicable) and AD (IPCC), CBI is to be provided with a copy of request for maintaining data/record and to follow-up on the execution of request.</p>                                                                                                                                                                                                                                                         |



#### **Difference between Mutual Legal Assistance (MLA) Request and Letters Rogatory (LR)**

|               | <b>Mutual Legal Assistance Request (MLA) Request</b>                                                                                                                   | <b>Letters Rogatory (LR)</b>                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Nature</b> | MLA request is made by the Central Authority of India to the Central Authority of another country on the request of the Investigating Officer or Investigating Agency. | LR is issued by the Indian Court on the request of the Investigating Officer or Investigating Agency under Section 112 and 123 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (Section 166A and Chapter VII A of CrPC).                                                                                                                                                                                       |
| <b>Scope</b>  | MLA Request can only be made to the countries with which India has Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention.              | LRs can be issued to the countries with whom India has Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention under the same arrangements.<br><br>Further, LR can also be issued to any other country (with whom India does not have any existing Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention) on the basis of assurance of Reciprocity. |

### **6.23. Nodal Officer in CBDT**

Deputy Secretary/ Director (Inv. I), CBDT is the nodal officer for LR and MLAT communications with MHA. The field formation is required to submit draft request to Deputy Secretary / Director (Inv. I), CBDT for onward submission to MHA. [director-inv1@gov.in].

### **6.24. Tax Clearance Certificate/ Look out Circular (LOC)**

Wherever considered appropriate, Tax Clearance Certificate under the Income-tax Act, 1961 or Look Out Circular for preventing an individual from leaving the country should be explored, if the person(s) concerned has/ have *prima-facie* committed a cognisable offence under the BMA, 2015.

#### **6.24.1. Requirement of Tax Clearance certificate in certain scenario**

Section 230(1A) of Income-tax Act, 1961 read with Rule 42 of the Income-tax Rules, 1962 stipulates that Income-tax authority, after recording reasons and due approval of Chief Commissioner of Income-tax, may ask any person who is domiciled in India to produce Tax Clearance Certificate before leaving the country if the conditions as specified in Instruction No. 1 of 2004 are met. The conditions specified in [Instruction No. 1 of 2004 dated 05.02.2004](#), are as under: -

- a) where the person is involved in serious financial irregularities and his presence is necessary in investigation of cases under the Income-tax Act or the Wealth-tax Act and it is likely that a tax demand will be raised against him, or
- b) where the person has direct tax arrears exceeding Rs.10 lakh outstanding against him which have not been stayed by any authority.

**By inserting BMA, 2015 in the provisions of section 230(1A) of the Income-tax Act, 1961, the scope of section 230(1A) of the Income-tax Act, 1961 has been expanded to cover proceedings under BMA, 2015.** Thus, only those persons domiciled in India would be required to produce Tax Clearance Certificate if they are covered under (a) or (b), as above.

#### **6.24.2 Look out Circulars (LOC)**

**6.24.2.1.** An investigating agency is empowered to issue Look-Out Circular ('LOC') in certain categories of cases which is governed by the Office Memorandum (s) issued in this regard by the Ministry of Home Affairs, Government of India (MHA) from time to time. The Income Tax Department being one of the enforcement agencies, also issues, LoC in context of cases being investigated under the BMA, 2015 and Income-tax Act, 1961. The MHA, in supersession of all the existing guidelines, has issued comprehensive guidelines vide O.M. dated 22.02.2021. This OM mentions that the request for LOC must be issued with the approval of an Originating Agency and that an officer not below the rank of Deputy Commissioner or an officer of equivalent level in CBDT is competent to issue such LOC.

**6.2.24.2.** MHA has also prescribed that every **LOC will be issued online from 01.06.2024 through Online LOC Portal**. The **Nodal Officers** of the LOC Online Portal are all the **Pr. DsIT(Inv.) and Pr. CsIT(Central)**. The details of the Nodal Officers are required to be communicated to SIC, BOI Hqrs. Each Nodal officer will require obtaining VPN token for accessing the online portal. For getting the VPN token, request in duly filled Digital Signature Certificate (DSC) form in respect of Nodal officer is required to be sent to NIC through SIC branch, BOI Hqrs. in original hardcopy (No scanned copy/not through email). DSC form can be downloaded from NIC official website- <https://vpn.nic.in>. Following preconditions are to be fulfilled for issuance of VPN token;

- a. Photo on the DSC form should be attested by Head of the Office (HO).
- b. ID proof of the applicant should be attested by HO.
- c. Page 2 of the form should be signed by the officer with office seal.

**6.24.2.3.** The Nodal Officers shall be provided login credentials and VPN token and subsequently, **Nodal officers may appoint originators of LOC request, who shall create/modify/delete the LOC request**. The Originators shall be required to apply for VPN token subsequently, on creation of the profile by the Nodal officer. As mentioned earlier, the originator shall be an officer of the rank of Deputy Commissioner of Income Tax or equivalent rank and above. The details of Nodal officers and originators are required to be shared with the BOI and on change of incumbency, the updated details are required to be shared with BOI so that BOI may connect with the originator if the person of interest is apprehended by BOI. For training to field units, BOI can be approached and request for same may be sent to [BOIHQ@nic.in](mailto:BOIHQ@nic.in) for conducting training.

**6.24.2.4.** Detailed guidelines on LoC have been issued vide **F.No.414/07/2022-IT (Inv. I) dated 26.06.2024** which, inter-alia contains cases and situations in which LOCs can be issued, reviewed, conditions for temporary relaxation, their revocation/deletion, etc.

**6.24.2.5.** In order to safeguard the interests of revenue, where issuance of LOC is contemplated or LOC has been issued, provisional attachments under provisions of section 132(9B) and 281B of the Income-tax Act, 1961 may be explored along with the application of the provisions of section 230 of the Income-tax Act, 1961.

## **6.25. Interpol Requests**

**6.25.1.** India is a member of ICPO-INTERPOL and Central Bureau of Investigation has been designated as the National Central Bureau of India for routing the requests for making informal inquiries with the NCBs of other countries. Informal request is a request made in the cases where the Investigating Agency needs information or leads, criminal intelligence or material in a faster way to form the basis of the case, or where during a formal investigation, such information is considered to be necessary. In such cases, the information may be collected by sending an informal request through INTERPOL channels, which is the world's largest International Police Organization.

**6.25.2.** The request for collection of information for the purpose of starting an investigation or for collecting leads to ascertain facts before launching formal investigation or for issuance of various INTERPOL notices such as Red Notice, Blue Notice, Green Notice, Yellow Notice, Black Notice, Orange Notice, Purple Notice, INTERPOL-United Nations Security Council Special Notice are routed for inquiries and assistance through NCB India (CBI). Other informal inquiries made with NCB of other countries or INTERPOL Headquarters are also made through NCB India.

**6.25.3.** Data preservation is the key step in investigation of offences involving digital evidence and cybercrimes. In the present internet, social media and cloud-based data environment, often the crucial and required evidence is internationally located across jurisdictions of several countries. Due to varying data retention policies across different international jurisdictions, timely preservation of data is of utmost importance for investigation. Digital evidence is often very crucial evidence to prove the guilt intention of the accused. Since this type of evidence can disappear quickly, it is of paramount importance to get the data preserved expeditiously through appropriate channels. **The G-8 24/7 Network for data preservation is one such channel.**

Generally, the data is preserved for an initial period of ninety days from the receipt of Request. Then after every sixty days, the request for preservation of data shall be served to the country concerned. The specific data retention periods must be verified country-wise through INTERPOL channels or G-8 24/7 network. During this period, the investigation Agencies including State Law Enforcement Agencies are expected at the earliest to get issued through proper procedure a Letters Rogatory or MLA Request for obtaining the data from concerned service provider.

**6.25.4.** Through [OM dated 8<sup>th</sup> July 2024 vide F. No. 414/100/2024-IT \(Inv. I\)\(Pt. I\)](#) it was informed that for Interpol Requests, Director (Inv. I), CBDT who is the ILO shall be the nodal point of contact for field formations. All such Interpol Requests are to be sent on mail to Director (Inv. I), CBDT through respective DGIT(Inv.) or CCIT(Central), as the case may be.

**6.25.6. Bharatpol portal** has been launched and henceforth, all the requests are required to be sent through Bharatpol portal only.

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## CHAPTER – 7

### SECRET SERVICE FUND

#### **7.1. Introduction**

Secret service fund is provided to the Investigation Directorates for incurring expenditure on secret activities essential for, or incidental to, the work of the Investigation wing. It can be utilised for the purchase of information and expenses on activities like surveillance and reconnaissance.

#### **7.2. Allocation of Funds**

The projections for the SSF [Budget Estimates & Revised Estimates of respective years] are required to be prepared by the respective DGsIT(Inv.), with due care, accounting for, *inter alia*, level of expenditure incurred in previous years and Foreseeable additional expenditure due to the specific events like the General Elections, etc. These projections are sent by the respective DGsIT(Inv.) [Specifying the correct head and quantum of funds clearly] to the Directorate of Income Tax (Expenditure Budget) for further processing.

#### **7.3. Incurring expense out of the funds**

An officer of the Investigation Unit is authorised to incur expenses out of the allotment made to him for secret service expenditure, and there is no necessity for sanction in each case before its withdrawal. He can draw the funds under his own authority as and when he needs them and make payments as and when the need arises.

#### **7.4. Maintenance of Accounts**

**7.4.1.** When funds under this head are placed at the disposal of an officer (usually the Pr. DIT(Inv.)) for the Secret Service, he should maintain a contingent register in the prescribed form mentioning the date and amount of each contingent bill, along with details of the progressive expenditure. The officer should also maintain, in the form of a cash book, a record of the receipt of funds and expenses incurred out of the same. The amount drawn on contingent bills will be entered in the cash book on the receipt side, specifying the number and the date of the bill against the entry. The date and amount of each payment, indicating the nature of the payment, should be entered on the payment side.

**7.4.2.** The vouchers should be chronologically maintained and entered in the cash book. The vouchers should bear the signature of the officer authorising the payment. These should be crossed after payment to avoid duplicate claims being entertained.

#### **7.5. Preparation of bills**

The officer to whom funds are allocated may draw vouchers for such sums as may be necessary. This need not be supported by any bills/receipts.

## **7.6. Control of expenditure**

**7.6.1.** As per existing instructions ([F. No. 6/26/2006-IFU\(B&A\) dated 13th December, 2006](#)), the Secret Service Funds should be used towards the purchase of information, equipment or cultivating intelligence and informer base, etc. The general control of expenditure incurred against the allotment will be vested in the officer aforesaid, who will be responsible for ensuring that accounts are duly maintained and that payments were properly made for the purpose for which the appropriation was made. The Government nominates a Controlling Officer for administrative audit of the expenses incurred from the funds allocated under this head. He should conduct such an audit at least once in every financial year.

**7.6.2.** The said Controlling Officer is required to furnish a certificate in the following form. This should be done latest by the 31st August of the year following the year to which the fund relates:

*“I hereby certify that the amount actually expended by me or under my Authority for secret service in the year ending the 31st March.....was Rs.....; that the balance in fund on the said 31st March was Rs.....and that this balance was surrendered by short drawing in the first bill presented during the year and I declare that the interests of the public service require that the above payments should be made out of secret service funds and that they were properly so made”.*

**7.6.3.** This certificate is required to be forwarded to the Zonal Accounts Officer, CBDT, along with ADG (Expenditure Budget), so that funds can be generated in time. An unspent balance with the DDOs at the end of the financial year is required to be surrendered.

### **7.6.4. Audit**

The accounts of the Secret Service expenses are not subject to scrutiny by any audit authority. However, even though the disposal of the funds is not auditable, still, the purpose for which the funds were utilised is open to inspection by the higher authorities. The officers utilising the allocated fund for incurring expenses like purchase of information, surveillance expenses, cultivating informer base, and intelligence gathering should keep a record of the expenses. For example, where any expenditure is incurred for the purchase of information, a secret record of details like, the person/persons to whom the said information relates, the date of purchase of information, whether the information was useful and whether any action was taken on the same. If the person giving information intends to claim a reward, a record of his identity should be kept with the appropriate code number so that the payment made from the secret fund is subsequently adjusted against the reward, if any, granted to him. The reference number of the file, where such information is kept, should also be mentioned in the cash book.

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## CHAPTER - 8

### INVESTIGATION IN CASES UNDER PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988

#### 8.1 Introduction:

**8.1.1.** The Benami Transactions (Prohibition) Act, 1988 (hereinafter referred to as the “Original Act”) was amended through the Benami Transactions (Prohibition) Amendment Act, 2016 [43 of 2016], and the name of the amended Act is *Prohibition of Benami Property Transactions Act, 1988 (hereinafter referred as PBPT Act)*. Prohibition of Benami Property Transactions Rules, 2016 were notified vide [GSR 1004 \(E\) dated 25.10.2016](#).

**8.1.2.** The PBPT Act is implemented by Income-tax authority notified by the Central Government. With a view to ensure more effective and swift action under the PBPT Act, dedicated Benami Prohibition Units (BPUs) were created. At present, 24 BPUs are functioning across the country. Each BPU presently consists of 1 Additional/Joint CIT, 1 Deputy/Assistant CIT, ITO and other officials. The officers of the BPUs have been assigned jurisdiction vide Notification No. [S.O.1621\(E\) dated 18th May 2017](#).

#### 8.2. Roles and Functions of the Authorities under the PBPT Act

**8.2.1.** The statutory functions are assigned to the Initiating Officer, Administrator and Approving Authority as provided in the PBPT Act. Besides the statutory functions, their roles/functions, inter alia, include the following:

| S. No. | Concerned Authority                   | Roles/Functions (apart from the functions laid down by the PBPT Act)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A.     | <b>Initiating Officer (ACIT/DCIT)</b> | <ul style="list-style-type: none"><li>i. To conduct enquiries about a Benami Transaction coming to his notice or sent to him and to take necessary actions as provided in the PBPT Act.</li><li>ii. To effectively represent the cases before Adjudicating Authority, Appellate Tribunal, High Court, the Supreme Court etc, personally or through Counsels.</li><li>iii. To co-ordinate with the Counsels in all cases pending before Adjudicating Authority, Appellate Tribunal, High Court, the Supreme Court and in cases where Writ Petitions have been filed, including with regard to the hearing of such cases; keeping track of dates and nature of hearing; filing of written submissions; briefing the counsels etc.</li><li>iv. To process the cases for filing prosecution complaints following the statutory mandate and pursuing such cases further.</li><li>v. To take such other actions in furtherance of due implementation of the PBPT Act, as directed by the supervising officers.</li></ul> |

|           |                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------|------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>B.</b> | <b>Administrator<br/>(ITO)</b>                                         | <ul style="list-style-type: none"> <li>i. Confiscation, management and disposal of confiscated property as per PBPT Act.</li> <li>ii. To assist the Initiating Officer in matters of proceedings under the PBPT Act, including inquiries, preparation and filing of submissions before Adjudicating Authority, Appellate Tribunal, High Court, the Supreme Court, processing criminal prosecutions, coordination between the Court and the counsels concerned with regard to the hearing of prosecutions cases, keeping track of date &amp; nature of hearing and keeping the Initiating Officer and the Counsels informed.</li> <li>iii. To facilitate logistics, including arranging relevant case records in advance for reference of the Initiating Officers and others concerned as and when required.</li> </ul> |
| <b>C.</b> | <b>Approving<br/>Authority<br/>(Additional<br/>CIT/ Joint<br/>CIT)</b> | <ul style="list-style-type: none"> <li>i. To supervise and guide the Initiating Officer and other BPU officers/officials in investigation, judicial and other matters and monitoring their performance.</li> <li>ii. To grant approval for closure of enquiries under the PBPT Act, 1988, in those cases where the reference u/s 24(5) has not been made to Adjudicating Authority.</li> <li>iii. To allocate work amongst the officers/officials posted in the BPU unit and ensure that such subordinates duly discharge their duties.</li> <li>iv. To liaise with officers in the Investigation Directorate and other agencies, wherever required.</li> </ul>                                                                                                                                                        |

**8.2.2.** The various judgments by the jurisdictional High Courts and the Supreme Court of India may be referred to while dealing with the application of the PBPT Act, along with any other subsequent guidelines issued and to be issued by the Central Board of Direct Taxes. To aid the implementation of the PBPT Act, CBDT has issued a Standard Operating Procedure (SoP) vide [F. No. 414/63/2016-IT \(Inv-1\) dated 10.08.2017](#). The above-mentioned SOP or any subsequent instructions/ SOPs issued by the Board are to be followed by the Investigation Directorates (including BPUs) and any other Income-tax authority (in cases where a reference may be required to be made to the BPU).

### **8.3. Potential sources for actions under the PBPT Act, 1988**

The officers posted in BPU should go through all the Appraisal Reports prepared by officers posted in Investigation Directorates to analyze them from the point of view of PBPT Act, 1988. Benami Complaints or TEPs containing allegations pertaining to violation of the PBPT Act, 1988 are also assigned to BPUs for investigation. Further, officers in BPU should also analyze local news to identify and develop cases which could have ramifications under PBPT Act, 1988. Cases in which documents have been forged to acquire the asset, cases of disproportionate assets where chargesheets have been filed by anti-corruption agencies, cases of 132A of the Income-tax Act, 1961 where cash carrier is apprehended and the carrier fails to

justify the source of cash could be analyzed for action, if any, under provisions of PBPT Act, 1988. The [OM dated 03.05.2024 in F. No. 414/167/2022-IT \(Inv. I\)](#) with the subject matter, 'Effective working and monitoring of work of BPUs' may be referred to.

#### **8.4. Coordination between Investigation Units and BPUs**

Often evidences relating to benami transaction are also found during the search and seizure operations and references are required to be drawn and shared with respective units for further investigation/ attachment, etc. To ensure effective and comprehensive investigation, it is necessary that different verticals working under PDIT(Inv.)/ DGIT(Inv.) interact amongst each other.

In this light, it is desired that PDsIT(Inv.) convene a quarterly meeting of all the verticals posted in the jurisdiction to monitor the progress of references made to different verticals and the smooth flow of information. Such quarterly meetings should also focus on discussion and ironing out of difference of opinions which exists between the verticals.

#### **8.5. e-Courts facility for filing reference before Adjudicating Authority and Appellate Tribunals under PBPT Act, 1988**

Through [OM dated 7<sup>th</sup> October, 2024 Vide F. No. 414/80/2022-IT\(Inv. I\)](#), it was informed that e-Courts facility for filing reference before the Adjudicating Authority under PBPT Act, 1988 had been made operation and subsequently all the references before the Adjudicating Authority were to be made through the online portal mandatorily. The link for accessing the e-Courts facility is <https://efiling.ecourt-dor.gov.in/#/>.

#### **8.6. Confiscation and disposal of assets (e-lekha and Bharatkosh)**

**8.6.1.** As per Rule 6(3)(iii) and Rule 8(2) of the PBPT Rules, 2016, the Administrator i.e., Income Tax Officer (BPU) must manage the confiscated property (cash, Government or other securities, bullion, jewellery or other valuables) by depositing the same for safe custody in the nearest Government Treasury or a branch of the RBI or the State Bank of India or its subsidiaries or any authorized Bank.

**8.6.2.** As per Rule 8(2) of the PBPT Rules, 2016, the administrator (i.e., ITO(BPU) has to manage the confiscated property consisting of cash, government or other securities, bullion, jewellery or other valuables by depositing the same for safe custody in the nearest government treasury or a branch of the RBI or the State Bank of India or its subsidiaries or any authorized bank. As per Rule 6(3)(iii) of the PBPT Rules, 2016, the administrator has to deposit the confiscated property consisting of cash, government or other securities or bullion or jewellery or other valuables in a locker in the name of Administrator or in the form of fixed deposit in the State Bank of India or its subsidiaries or in any nationalized bank. Non-Individual Regular Saving Bank Account is to be opened in the name of the ITO(Administrator) and then confiscated property can be deposited in this saving bank account.

**8.6.3.** Rules 9 of the PBPT Rules, 2016 deal with the disposal of confiscated assets. Two sub-heads had been opened and mapped in e-Lekha for receipt from sale of confiscated properties under PBPT Act, 1988 and Fines imposed under PBPT Act, 1988.

| <b>Sub-heads</b> | <b>Purpose</b>                                                       |
|------------------|----------------------------------------------------------------------|
| 0047.00.111.04   | Receipt from sale of confiscated properties under the PBPT Act, 1988 |
| 0047.00.111.05   | Fines imposed under the PBPT Act, 1988                               |

**8.6.4.** In this regard, the first step by respective Administrator, ITO(BPU) to operationalize the process of transfer of funds to Government of India account, is to contact the local ZAO office to get the sub-heads mapped in e-Lekha to utilize the same for depositing proceeds from the disposal of confiscated properties under PBPT Act, 1988 as well as for depositing penalties imposed under PBPT Act, 1988.

**8.6.5.** Thereafter, once the e-Lekha subheads are mapped onto respective ZAO portals, confiscated property can be transferred from the account of Administrator, ITO(BPU) into the account of Government of India using Bharat Kosh. It is to be remembered that the first thing to be confirmed is mapping of e-Lekha subheads on ZAO account and only after mapping is confirmed, the amount is to be transferred using Bharatkosh. The Rules specified with regard to disposal as per Rule 9 of the PBPT Rules, 2016 are to be kept in mind before disposing the Benami Property.

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## CHAPTER - 9

### EXCHANGE OF INFORMATION WITH OTHER AGENCIES AND AUTHORITIES

#### 9.1. Introduction

Income Tax Department holds the taxpayer's information in fiduciary capacity. Also, the information emanating out of the intrusive investigations, involves sensitive issues. Thus, high levels of discretion are desirable while sharing of the same. Accordingly, no sharing of information/request for information, which pertains to search and seizure operations, shall be made without prior approval of Pr.DIT(Inv.)/Pr.CIT(Central) concerned. The Pr.DIT(Inv.)/Pr.CIT(Central) concerned should ensure that the latest Board instructions on the subject of sharing of information are duly followed, while sharing of the information.

#### 9.2. Section 138 of the Income Tax Act, 1961

Sharing of information by CBDT is governed by section 138 of the Income Tax Act, 1961 [the Act]. CBDT accordingly shares information with such agencies covered under the ambit of the said statute, both *suomoto* and on a request basis. The sharing of the relevant intelligence/information received/acquired during search and seizure/Survey operations and post Search/Survey investigations with the concerned Law Enforcement Agencies [LEA(s)] is sine qua non to a 'whole of government' approach as it addresses wide range of violations/crimes, financial or otherwise, like combating tax-evasion, money laundering, terror-financing, corruption by public servants etc., investigated by other LEAs. Such information sharing would help the LEA(s) concerned to take a pro-active role in initiating necessary action and thus ensure due deterrence. The income tax website contains a useful list of many relevant Acts, administered by various agencies, in a searchable format [<https://incometaxindia.gov.in/pages/acts/index.aspx>].

#### 9.3. Suo-moto sharing of Information

When sharing information on a suo-moto basis, it should be first verified by the field formations of CBDT, whether such intended recipient of the information is either covered under the ambit of section 138(1)(a)(i) or notified by the CBDT u/s 138 of the Act, or not. All the notifications in respect of such notified authorities can be retrieved from the Tax Utility on "Authorities for disclosure of information about [<https://incometaxindia.gov.in/Pages/utilities/Authorities-For-Disclosure-Of-Information.aspx/1000>]. Information may be shared on a suo moto basis with only such agencies which either come under the ambit of section 138(1)(a)(i), or are notified u/s 138(1)(a)(ii), and such information sharing should also be in line with the other conditions, if any, stipulated in respective notifications.

#### **9.4. Information is exchanged with other agencies and authorities through the following mechanisms:**

##### **9.4.1. Information Sharing Protocol by Central Economic Intelligence Bureau (CEIB)**

**9.4.1.1.** A well-established mechanism for sharing intelligence/ information of relevance to various agencies exists in the form of the Central Economic Intelligence Bureau, which is a body at the Central level and, *inter alia*, serves as the secretariat of the Economic Intelligence Council (headed by the Hon'ble Finance Minister).

**9.4.1.2.** CEIB has issued '**Information Sharing Protocol**' (ISP) in April' 2018, for sharing of information by Law Enforcement Agencies and Departments with CEIB. The order under section 138 giving effect to said ISP in the Income Tax Department, is as follows:



**Income Tax Department**  
Government of India

#### **SECTION 138 OF THE INCOME-TAX ACT, 1961 - DISCLOSURE OF INFORMATION RESPECTING ASSESSEES TO SPECIFIED OFFICER, AUTHORITY OR BODY PERFORMING FUNCTIONS UNDER ANY OTHER LAW - NOTIFIED AUTHORITY UNDER SECTION 138(1)(a)(ii)**

**CBDT ORDER [F.NO.225/245/2018-ITA.II], DATED 25-7-2018**

In exercise of powers conferred under section 138(1)(a) of Income-tax Act, 1961 ('Act'), the Central Board of Direct taxes, hereby directs that income-tax authorities specified in column (3) of the Table below shall furnish the information as mentioned in the corresponding entry in column (2) to the Director General, Central Economic Intelligence Bureau, Department of Revenue, Government of India, as notified under sub-clause (ii) of clause (a) of sub-section (1) of section 138 of the Act, vide Notification No. 34/2018 dated 25.07.2018.

TABLE

| S. No. | Information to be furnished                                                                                | Specified Income-tax Authority                                                                              |
|--------|------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| (1)    | (2)                                                                                                        | (3)                                                                                                         |
| 1.     | Preliminary Search Report, Summary of Survey Report, Summary of Appraisal Report                           | DGIT (Investigation)                                                                                        |
| 2.     | Summary of assessment order(s) in cases searched/surveyed by DGIT(Investigation)                           | Pr.CCIT, DGIT (Investigation), Pr. CCIT (International-tax), CCIT (Exemption), CCIT (Central)               |
| 3.     | Summary of appellate order(s) of Commissioner (Appeals) in cases searched/surveyed by DGIT (Investigation) | Pr.CCIT, DGIT (Investigation), Pr. CCIT(International-tax), CCIT (Exemption),CCIT (Central)                 |
| 4.     | Details of Prosecutions filed/convictions/acquittals                                                       | Pr.CCIT, DGITT (Investigation), Pr. CCIT (International-tax), CCIT (Exemption), CCIT (Central), DGIT (I&CI) |

While furnishing the abovementioned details, as provided in section 138(1)(a) of the Act, the specified income-tax authority has to form an opinion that furnishing of such information is necessary for the purpose of enabling the specified authority in CEIB to perform its functions.

The protocol of furnishing information to CEIB by various specified income-tax authorities shall be dealt with by the Investigation division of CBDT.

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**9.4.1.3.** CBDT has sensitized the field formations to duly adhere to the timelines prescribed for sharing of information with CEIB [vide [F. No. 414/21/2010-IT\(Inv. I\) dt. 07.06.2018, 06.07.2018](#) and vide [F. No. 414/21/2010-IT\(Inv. II\) Vol. XI dt. 25.02.2019](#)]

**9.4.1.4.** Further, the information received by CEIB under the ISP is, *inter alia*, disseminated by it to the relevant LEAs. Any information received by the CBDT from CEIB is disseminated by the Board to the respective DGsIT(Inv.) for necessary action.

#### **9.4.2. Sharing through Regional Economic Intelligence Councils (REICs)**

**9.4.2.1.** There are 30 Regional Economic Intelligence Councils (REIC) spread across the country, out of which 19 REICs are presently headed by DGIT/CCIT, with CEIB coordinating their functioning and monitoring their performance. Also, at the REIC meetings, the information is being received/shared from/by Law Enforcement Agencies and the field formations directly. Such meetings are attended by various member agencies, including representatives from field formation of CBDT, CBIC, and related agencies of the Central and State Government viz. DRI, DGGI, NCB, ED, CBI, IB, local heads of the RoC, RBI and SEBI, State Police and tax authorities etc. Certain Chief Commissioners/ Director Generals of Income-tax stations are designated as conveners of some of the REICs for conducting its regular meetings. Information on specific cases, new modus operandi detected during investigations by member agencies is shared in such meetings.

**9.4.2.2.** Mandatory information sharing is to be done with the REICs (as per REIC Manual, 2019) in the Form I:

## FORMATS FOR REPORTING BY REIC MEMBERS

### REIC FORM-I

*(To be submitted by the members of REICs to the convener before each REIC meeting)*

#### REPORTING AGENCY:

#### PERIOD TO WHICH INFORMATION PERTAINS:

#### **A. Cases sponsored by the member agencies for information in the REIC**

|    |                                                                                                          |
|----|----------------------------------------------------------------------------------------------------------|
| 1. | Date of detection/Search/Seizure etc.                                                                    |
| 2. | Name of the Company/Individual/Unit/Assessee                                                             |
| 3. | Name of the Director/Owner/key persons                                                                   |
| 4. | Address(es)                                                                                              |
| 5. | Registration No./PAN/TAN/DIN/ROC etc.                                                                    |
| 6. | Duty/tax/Actual amount involved and the FY *                                                             |
| 7. | Information in brief (including modus operandi/type of offence detected, etc.)                           |
| 8. | Contact information of the designated officer who is to be contacted for further details/<br>information |
| 9. | Remarks                                                                                                  |

#### **B. Cases having interdepartmental ramifications sponsored by the member agencies for further action in the REIC:**

|     |                                                                                                                                                |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Date of detection/Search/Seizure etc.                                                                                                          |
| 2.  | Name of the Company/Individual/Unit/Assessee                                                                                                   |
| 3.  | Name of the Director/Owner/key managerial persons                                                                                              |
| 4.  | Address(es)                                                                                                                                    |
| 5.  | Registration No./PAN/TAN/DIN etc.                                                                                                              |
| 6.  | Summary of case detected (including modus operandi/type of offence suspected/ detected<br>etc.)                                                |
| 7.  | Duty/tax/ amount involved and the FY *                                                                                                         |
| 8.  | Whether information was made available earlier (before sponsoring in the REIC) to other<br>agencies. If so, name of agencies, date of sharing. |
| 9.  | Other departments/ agencies who are to consider the information for further action                                                             |
| 10. | Contact information of the designated officer who is to be contacted for further details/<br>information                                       |
| 11. | Remarks                                                                                                                                        |

\*FY in all Forms refers to April-March of the year when offence is detected

**9.4.2.3.** The above reporting to the REICs is to be mandatorily done if the following thresholds are met:

REIC MANUAL-2019

**Threshold Limits for Mandatory Exchange of Information**

| S. No. | Agency             | Category of Information                            | Non-Metro         | Metro        |
|--------|--------------------|----------------------------------------------------|-------------------|--------------|
| 1      | CBIC/ DRI          | Seizure of Assets                                  | Rs. 50 lakhs      | Rs. 50 lakhs |
|        |                    | Duty Evasion                                       | Rs. 50 lakhs      | Rs. 1 Crore  |
| 2      | CBIC/DGGS TI       | Tax Evasion                                        | Rs. 50 lakhs      | Rs. 2 Crore  |
|        |                    | Suppression of Production/turnover/sales           | Rs. 2 Crore       | Rs. 5 Crore  |
| 3      | CBDT               | Seizure of assets                                  | Rs. 1 Crore       | Rs. 2 Crore  |
|        |                    | Concealment of Income                              | Rs. 2 Crore       | Rs. 5 Crore  |
| 4      | ED                 | PMLA/FEMA Violation                                | Rs. 50 lakhs      | Rs. 1 Crore  |
| 5      | SEBI               | Penalty                                            | Rs. 5 Lakhs       |              |
| 6      | State Tax          | Tax Evasion                                        | Rs. 50 lakhs      | Rs. 2 Crore  |
|        |                    | Suppression of Turnover                            | Rs. 2 Crore       | Rs. 5 Crore  |
| 7      | State Police (EOW) | Commercial/Bank frauds etc attracting IPC & PC Act | Upto Rs. 3 Crores |              |

Threshold limit in case of other agencies not mentioned above, may be decided by each REIC

**9.4.2.4.** Moreover, the follow-up requests for information/documents, arising from the initial sharing of information at the REIC platform may be processed at field level between the agencies concerned. The difficulties, if any, regarding coordination/sharing of information or updating/ results of enquiries between the concerned agencies should be brought to the notice of the convenor of the respective REIC so that there is no contradiction in domains of REIC and Nodal Officer mechanism in such cases. If need be, the issue may be taken up with the National Nodal Officer [discussed in para 9.4.3 below w.r.t. agencies covered in the Nodal Officer mechanism].

### **9.4.3. Nodal Officer mechanism**

**9.4.3.1.** Nodal Officers for inter-agency coordination among the LEAs (CBI, RBI, SEBI, CBDT, CBIC/DRI, FIU-IND, Delhi Police, ED and SFIO) have been nominated. The said Nodal Officer mechanism was operationalized from February 2021 in CBDT for bi-directional sharing of information with the aforementioned agencies. Commissioner (Investigation), CBDT is the Nodal Officer for requesting/furnishing the information ([F.No.289/8/2021-IT](#))

[\(Inv II\), dated 17<sup>th</sup>February, 2021 & 13<sup>th</sup> April 2022](#)). CBDT has also issued a checklist for sharing of information with LEAs vide [F. No. 286/43/2024-IT \(Inv. II\) dated 06.05.2024](#). The salient points mentioned for the sharing of information through the nodal officer mechanism are as follows -

- a. All requests for information be routed only through respective nodal officers.
- b. Requests sent should be specific in nature. This will facilitate easy retrieval of data/information.
- c. Due care should be taken to maintain the chain of custody for sharing of information/documents. For example, if in pursuance to a request from ED/CBI, the Board directs the field formation(s) concerned to furnish the information/documents to ED/CBI directly [without routing through the Board], then such instruction may be duly followed in the interest of maintaining Chain of Custody.
- d. Complete copies of Appraisal/Survey reports are not to be shared unless otherwise required.
- e. The legal requirements of taking due approval from competent authorities may be duly followed; for example, information received under the tax treaties with foreign jurisdictions may be shared only in accordance with the treaty provisions and conditions and directions contained in the Board [letter dated 19.07.2022 vide F. No. 414/118/2022-IT\(Inv. I\)](#).

#### **9.4.4. Sharing of information regarding Terror Financing**

**9.4.4.1.** Further, CBDT is required to regularly screen its database for UN designated terrorists and entities under 1267 Sanctions list, and share any matching results with NIA/MHA for necessary action. In this regard, necessary instructions on “*Guidelines on Terrorist Financing (TF) Screening of Non-Profit Organizations (NPOs)*”, have been issued to field formations vide letter [dated 11<sup>th</sup> August, 2022 in F. No. 173/148/2021-ITA-1](#).

**9.4.4.2.** Board has also sensitized the DGsIT(Inv.) to share information on proliferation financing which comes to their knowledge, with the FIU-IND. Reference may be made to Board’s letter [dated 06.06.2024 in F. No. 414/21/2010-IT\(Inv. I\)\[Vol. XVIII\]](#) in this regard.

#### **9.4.5 Other aspects**

**9.4.5.1.** Except in the case of judicial/quasi-judicial requirements, the information accessible from public platforms/websites should be ideally sourced therefrom. This would enable maintenance of confidentiality as well as saving time for all the agencies/entities concerned. In this context, Board’s communication w.r.t information available with SEBI [[F. No. 286/42/2022-IT\(Inv. II\)\[Vol. IV dated 01.06.2023\]](#)], may be a good reference point.

**9.4.5.2.** While sharing information with the LEAs, it may be kept in mind that such sharing does not jeopardize the ongoing investigations under laws administered by the CBDT, especially in cases which are in premature stage of investigation or are sensitive in nature requiring detailed investigation before arriving at the conclusion of the same.

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## CHAPTER - 10

### AIR INTELLIGENCE UNITS

#### **10.1. Introduction**

**10.1.1.** Air Intelligence Units (AIUs) function within the Directorates of Income Tax (Investigation). Initially, an AIU was set up at the Chennai Airport in the early 1990s. Subsequently, AIUs were set up in other places. At present, AIUs are functional at most major airports like Ahmedabad, Bengaluru, Dabolim and MOPA in Goa, Hubballi, Indore, Raipur, Amritsar, Jammu, Srinagar, Mohali, Chennai, Delhi, Hyderabad, Bhubaneswar, Jaipur, Kochi, Trivandrum, Kolkata, Guwahati, Lucknow, Dehradun, Varanasi, Mumbai, Ranchi, Pune and Nagpur.

**10.1.2.** The information gathered and processed by an AIU can provide useful inputs for a variety of tax enforcement activities, like search, survey and other tax investigations, as also for gathering and processing of information for identifying potential cases for search.

#### **10.2. Coordination of AIU with Other Agencies**

The Officers and staff of AIU should establish close co-ordination with other enforcement and investigation agencies like, the Customs, Central Industrial Security Forces (CISF) manning airport security, Enforcement Directorate, Directorate of Revenue Intelligence, Airport administration and the police. It will not only help in getting useful information with respect to domestic and international passengers but will also help in getting requisite assistance in operations. At some of the airports, state police instead of CISF may be manning the security, thus, close coordination with the concerned police head may be required.

#### **10.3. Inquiries by the AIU**

**10.3.1.** The AIU may have information in respect of a passenger or a person in the airport by way of a secret tip, information by informer or from inquiries made by other authorities like, the security personnel deployed for checking baggage or personal check of passengers, customs officials and other Air Intelligence Units. In case there is an information about any passenger carrying books of account and other documents (including digital devices) containing information about undisclosed income or wealth, undisclosed money, bullion, jewellery or other valuable article or thing, preliminary inquiries should be made to ascertain whether any further action is required. The person, , may be examined on oath under section 131(1A) of the Act to gather information like, his name, identity, local address, permanent address, address at the destination city, Permanent Account Number, whether he is assessed to income-tax and if so, the assessment unit where he is assessed to income-tax, nature of his business/profession/occupation, nature of the books of account and other documents in his possession, nature of possession and the source of acquisition of the money, bullion, jewellery or other valuable article or thing that he is carrying and the purpose for which these are being carried.

**10.3.2.** In case the person says that he is carrying such things for being delivered to any other person, the name, address and telephone/mobile number of such other person should also be obtained. If the time available for make inquiries from a departing passenger is short and it is not possible to make further inquiries or take further appropriate action in the matter and the person is travelling within the country, he may be allowed to travel. Information about him and his travel details may also be obtained from the airlines. In suitable cases, the ADIT/DDIT (Investigation) should take suitable steps for making further inquiries. Where necessary, he may also seek the assistance of other income-tax authorities. It is on the basis of these inquiries and gathering of information from the relevant sources that suitable strategy/action required to be taken (like search, survey or open inquiry) can be identified.

#### **10.4. Identification of strategies/action**

The outcome of the inquiries and the information gathered should be promptly reported to the Joint/Additional Director of Income Tax (Investigation) and his directions sought. If the inquiries made and the information gathered show the existence of one or more of the conditions referred to in clauses (a), (b) and (c) of sub-section (1) of section 132, the ADIT/DDIT (Investigation) may initiate a 'satisfaction note'. This should be put up to the PDIT (Investigation) through the Joint/Additional DIT (Investigation). The law and procedure for recording satisfaction note, issuance of warrant of authorisation under section 132, obtaining prior administrative approval of the DGIT (Investigation) and the conduct of search in such cases are the same as in a search in any other case. Where the competent authority issues a warrant of authorisation under section 132, the same should be executed in accordance with the law.

#### **10.5. Information to AIU/Investigation unit at destination airport**

**10.5.1.** Where because of the time constraint or other constraints, the Investigation unit is unable to, (i) identify the action required to be taken or (ii) obtain and execute a warrant of authorisation in a situation where the competent authority has taken a decision to do so, before the flight takes off, the information and evidence gathered may be passed on to the AIU of the destination airport or if there is no AIU at the destination airport, to the Joint/Additional DIT (Investigation) or the PDIT (Investigation) of that area. As identification of the passenger may be required at the destination airport, passenger's name and seat number, along with the names of persons travelling with him, if any, should be communicated to the destination AIU. Where the flight has a stopover, the information gathered may also be passed on to the AIU/concerned Investigation unit of that airport as a precautionary measure so that the passenger may not alight at a stop-over airport to avoid any follow up action.

**10.5.2.** At times, alerted by the inquiries at the departure point, the passenger may try to shift his baggage containing valuables to another fellow traveller or destroy or tamper with any evidence. In case it is apprehended that any person might destroy, tamper with or remove from his possession any books of account, other documents, money, bullion, jewellery or other valuable article or thing, the appropriate authorities at the airport may be requested to remove the same from his immediate control. In case it is felt that identification of the person might be

a problem at the destination airport, the crew members may be requested to identify him and help in his identification at the destination airport. Even sending his photograph through mobile phone, appropriate digital/communication technology/internet, crewmembers, etc. may be considered.

**10.5.3.** Information, if any gathered, analysed and processed, evidence collected, and verifications made after the departure of the flight should be communicated to the AIU of the destination airport/Principal Directorate of Income Tax (Investigation) operating in that area to enable the officers there to take further appropriate action in accordance with the law. Speed will be of essence in such cases.

#### **10.6. Action at the destination airport**

Where any reliable information useful for or relevant to direct taxes enforcement/investigations is received from any source (including from another AIU) against a passenger alighting from a flight, he should be identified and intercepted for questioning. If the income-tax officials at the destination airport are unable to identify him directly, boarding cards and inquiries from crew members might help in his identification. The information and evidence, if any provided by the AIU that made the initial inquiries, may be supplemented by making further inquiries and investigations. A search can, however, be conducted only if the authority competent to authorise search is satisfied that the relevant statutory conditions are fulfilled and the case is fit for taking action under section 132 of the Act. It is possible that cash or other valuables are distributed among two or three passengers flying together as a strategy to avoid search and seizure action of such cash and valuables. The Officers and Staff at AIU must be vigilant in such situations and conduct thorough inquiries of all such persons travelling together carrying cash and valuables.

#### **10.7. Inspection of cargo**

The undisclosed books of account, other documents, money, bullion, jewellery or other valuable article or thing may also be sent through unaccompanied cargo. Consignors can send valuables from one destination to another through the airlines, who carry and deliver the same as couriers. There are also various courier agencies, which handle parcels, both domestic and international, using their own aircraft. It would be necessary therefore for the AIU to monitor the cargo traffic also in liaison with the appropriate authorities like, the customs authorities.

#### **10.8. Action at international terminals**

The action required at international departure terminals should be very quick and efficient, especially if the inquiries pertain to a person who is leaving India, as it may not be possible to make further inquiries or initiate any action against him at the destination airport. As soon as the baggage containing books of account, other documents (including digital devices/evidence) believed to be containing information about direct taxes evasion or other direct taxes violations or undisclosed money, valuables, etc. have been identified, suitable inquiries and follow-up action should be taken promptly. In suitable cases, officer of Customs at the airport may also

be informed to get their assistance and also to inform them about possible violation of Customs related laws.

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## CHAPTER 11

### REWARD TO INFORMANTS AND DEPARTMENTAL PERSONNEL

#### 11.1. Introduction

This chapter briefly discusses the salient features of the schemes and guidelines formulated for the purpose of grant of reward to the informants and the departmental personnel associated with search and seizure operations in order to familiarise the officers of the department with them. It is advisable that the officers must go through such schemes and guidelines formulated from time to time and their applicability while processing specific proposals of rewards.

#### 11.2. Reward to Informants

##### 11.2.1 Guidelines for the grant of reward to informants and their applicability

**11.2.1.1.** Rewards to informants are governed by the guidelines issued by the Board from time-to-time. The first guideline was issued in the year 1964. The exact applicability of any guideline or a set of guidelines to a case would depend inter- alia, upon the date on which the informant furnished the information to the department. The latest guideline for grant of reward to informants was issued in 2018, with effect from the 23<sup>rd</sup> of April 2018.

**11.2.1.2.** A chronology of the guidelines for grant of reward to informants issued from time-to-time in the past and their applicability is as under:-

| S. No. | Year of issuance of the guidelines | Applicable to information furnished   |            |
|--------|------------------------------------|---------------------------------------|------------|
|        |                                    | From                                  | To         |
| 1      | 1964                               | Information received up to 31.03.1970 |            |
| 2      | 1970                               | 01.04.1970                            | 30.06.1973 |
| 3      | 1973                               | 01.07.1973                            | 31.12.1979 |
| 4      | 1980                               | 01.01.1980                            | 30.09.1983 |
| 5      | 1983                               | 01.10.1983                            | 30.11.1987 |
| 6      | 1987                               | 01.12.1987                            | 30.11.1993 |
| 7      | 1993                               | 01.12.1993                            | 28.11.2007 |
| 8      | 2007                               | 29.11.2007                            | 22.04.2018 |
| 9      | 2018                               | 23.04.2018                            | Continuing |

**11.2.1.3.** The discussion in this chapter is with reference to the guideline for grant of reward to informants issued in the year 2018. For processing of the reward proposals for the years prior to 2018, the officers are advised to follow the guideline applicable for a particular case as per the table above.

**11.2.1.4.** The new reward scheme introduced in 2018 titled as “**Income Tax Informants Rewards Scheme, 2018**” for regulating grant and payment of reward to a person who is an informant came into effect from 23.04.2018. This Scheme regulates the grant and payment of

reward to informants in cases where information is received by Addl. DIT(Inv.)/JDIT (Inv.) from the informant on or after the date of its issue, and where the information leads to detection of substantial tax evasion under the provisions of Income-tax Act, 1961 and/or the Black Money (Undisclosed Foreign Income & Assets) and Imposition of Tax Act, 2015. This Scheme shall not be applicable to information regarding recovery of irrecoverable taxes since the **Central Board of Direct Taxes has issued separate Guidelines for the same vide [F. No. 385/21/2015-IT \(B\) dated 26.8.2015](#).**

### **11.2.2. Informant**

A person will be considered an informant for the purposes of this Scheme only if he has furnished specific information of substantial tax evasion in a written statement in the prescribed form (Annexure - A to this Scheme) and, based upon which, an Informant Code has been allotted to him by the prescribed authority. No claim for reward shall be entertained from a person who is not an informant under this Scheme, even if such person has furnished some information in any manner.

*A person cannot claim any reward under the scheme if he is not an informant under the scheme, even if such person has furnished specific information of income or assets in any other manner, e.g., through letter, e-mail, CD, WhatsApp, SMS, phone, posting in social networking site or publishing letter in newspaper or any other media.*

### **11.2.3. Secrecy of identity of informant & information**

Identity of the informant, the information given by him (including all related documents/annexures) or the reward paid to him shall not be disclosed to any person/authority except when expressly required under any law for the time being in force or by order of any court of law. The documents/annexures relating to identity and information shall remain confidential and be dealt with accordingly. After allotment of Informant Code, the person shall be identified with Informant Code only.

### **11.2.4. Procedure of furnishing information by Informant**

**11.2.4.1.** A person who wants to give information of substantial tax evasion in expectation of reward under this scheme may contact the DGIT (Inv.)/PDIT (Inv.)/Addl. DIT (Inv.)/JDIT (Inv.) concerned. If he appears before DGIT (Inv.)/PDIT (Inv.), they will direct him to appear before Addl. DIT (Inv.)/ JDIT (Inv.) concerned to furnish the information in the prescribed form (Annexure-A). If the jurisdictional Addl. DIT (Inv.)/ JDIT (Inv.) considers the information prima facie actionable, the person shall have to submit the information in prescribed format in Annexure - A by appearing in person before the Addl. DIT (Inv.)/JDIT (Inv.), when called.

**11.2.4.2.** In case of any difficulty, the person desirous of giving specific information may contact the PDIT (Inv.) of the area. The decision of PDIT (Inv.) will be final in the matter of allotment of Informant Code under this Scheme.

**11.2.4.3.** Where a person gives information to an Income-tax authority other than DGIT(Inv.)/ PDIT (Inv.)/ Addl. DIT (Inv.)/ JDIT (Inv.), such person should be asked to contact the DGIT (Inv.)/PDIT (Inv.)/ Addl. DIT (Inv.)/ JDIT (Inv.) concerned, and thereafter, the aforesaid procedure, as the case may be, for receiving the information is to be followed by these authorities.

**11.2.4.4.** The informant shall be given a unique Informant Code and the person will always be identified based on that Informant Code.

**11.2.4.5.** If the information is furnished by a group of informants (more than one informant working together), the prescribed form, statements, etc. must be filled and signed by all such informants, jointly and Informant code will be allotted to each of them. The reward payable in such cases shall be disbursed in equal proportion, unless specified otherwise by such informants at the time of furnishing information in the prescribed form.

**11.2.4.6.** If an informant furnishes information in respect of more than one group of cases, the prescribed form at Annexure-A to the guidelines shall be filled and signed separately for each such group. However, in such a situation the Informant Code for such informant shall remain one and the same.

**11.2.4.7.** The informant shall be liable to render assistance as may be required by the Addl.DIT(Inv.)JDIT (Inv.) or any other investigating officer to whom the Addl. DIT (Inv.)/JDIT (Inv.) concerned may assign the investigation in the matter of information given by the informant.

**11.2.4.8.** It should be noted that furnishing false information/evidence is an offence and a person giving false information/evidence/ statement will be liable to be prosecuted for such offence.

#### **11.2.5. Amount of reward, its basis and stages of determination**

The reward under **Income Tax Informants Rewards Scheme, 2018** may be granted in two stages, namely, interim & final. The scheme prescribes for determination of interim reward and final reward for information of undisclosed foreign income/assets liable under the Black Money (Undisclosed Foreign Income and Assets) Act, 2015 and information of undisclosed income/assets liable under the Income-tax Act, 1961. The scheme also specifies timeline for payment of interim reward and final reward.

#### **Authority competent to grant reward**

##### **11.2.6. The Authority competent to grant reward is as below;**

(i) The authority competent to grant interim reward shall be a Committee comprising the concerned (i) DGIT (Inv.), (ii) PDIT (Inv.) & (iii) Addl. DIT (Inv.)/ JDIT (Inv.). The Addl. DIT (Inv.)/ JDIT (Inv.) concerned shall also act as Secretary of the Committee. Formal sanction order for payment of reward shall be issued by the PDIT (Inv.) concerned.

(ii) The authority competent to grant final reward shall be a Committee comprising the concerned: i) DGIT (Inv.), (ii) PDIT (Inv.); (iii) PCIT & (iv) Addl. DIT (Inv.)/ JDIT (Inv.). The Addl.DIT (Inv.)/ JDIT (Inv.) concerned shall also act as Secretary of the Committee. Formal sanction order for payment of reward shall be issued by the PDIT (Inv.) concerned. The PCIT here refers to the PCIT under whose charge the cases relevant for determination of reward are assessed to tax pursuant to receipt of the report from the Investigation Directorate. Where the cases relevant for determination of reward are assessed across many PCIT charges, the PCIT for the purpose of the Committee shall be the PCIT of the charge in which the assessed cases contribute to the maximum amount of relevant additional taxes. However, inputs of all other PCsIT will be taken and considered by the Committee before grant of reward.

(iii) In case of any difficulty in deciding the composition of the Committee, the DGIT (Inv.) concerned may refer the matter to the Chairman, CBDT and form the Committee in consultation with him. It is worth noting that Chairman, CBDT supervises the work of DGIT(Inv.), CCsIT(Central) and Pr. DGIT(I&CI).

#### **11.2.7. Factors relevant for determination of interim or final reward**

The following factors may be considered for grant and payment of interim or final reward:

(i) Fulfilment of conditions for grant of interim or final reward, as the case may be, mentioned in this scheme.

(ii) Accuracy and precision of the information furnished by the informant.

(iii) Extent of usefulness of information including supporting documents etc. provided by the informant.

(iv) Extent and nature of assistance rendered by the informant in detection of undisclosed income/asset.

(v) In case of final reward, the amount of additional taxes levied and realised on the undisclosed income/asset detected, which is directly attributable to the information received from informant.

(vi) Risk and trouble undertaken and expenses incurred by the informant in securing and furnishing the information

#### **11.2.8. Circumstances under which an informant will not be eligible to get any reward**

No reward shall be granted to an informant under certain circumstances which may include the following:

(i) Where the information is not provided in accordance with the scheme; or

(ii) If terms and conditions of the scheme are not fulfilled; or

- iii) Where the information given is not of substantial tax evasion; or
- (iv) Where the information given is vague/non-specific and/or of general nature; or
- (v) Where the information given is already available with the Income Tax Department; or
- (vi) Where the information is not received directly from the informant but through any organization other than Income-tax Department; or
- (vii) Where additional taxes on the undisclosed income detected are not directly attributable to the information given by the informant; or
- (viii) Where Income-tax Department has evidence that the information given by the Informant has been shared by him or any other person authorized by him, with any other entity/agency including media; or
- (ix) In respect of incidental or collateral benefit which may arise to revenue in any other case because of the information furnished by the informant.

#### **11.2.9. Taking cognizance of information furnished by the informant**

In case, if it is found that the antecedents of the informant, nature of the information furnished by him in past and his conduct justify not taking cognizance of the information furnished by him, the matter shall be referred by the Addl.DIT (Inv)/ JDIT (Inv) to the PDIT (Inv) concerned and, if approved by the PDIT (Inv.), it would be open to the Addl. DIT (Inv.)/ JDIT (Inv.) to ignore the information furnished by the informant.

#### **11.2.10. Non-disclosure of information regarding the taxpayer/assessee**

The Central Board of Direct Taxes or the Income-tax Department does not provide feedback and/or update on the information received or subsequent actions taken thereon. Disclosure of information regarding specific taxpayers is prohibited except as provided under Section 138 of the Income-tax Act, 1961 and under Section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, read with Section 138 of the income-tax Act, 1961. Director General of Income Tax (Investigation) are exempt from providing information under Section 24 of the Right to Information Act, 2005 read with Second Schedule thereof.

#### **11.2.11. Grievance redressal**

In case of any grievance, the informant may contact the PDIT (Inv.) concerned who shall take necessary steps to redress the grievance expeditiously.

#### **11.2.12. Prohibition on rewarding Government Servants**

No reward shall be granted under this scheme to any Government Servant, who furnishes information or evidence obtained by him in the course of normal duties as a Government

Servant. A person employed by the Central Government or State Government or Union Territory Government or a nationalized bank or local authority or public sector undertaking, corporation, body corporate or establishment, set up or owned by the Central Government or State Government or Union Territory Government shall be deemed to be a Government Servant for the purpose of this Scheme.

### **11.3. Reward to departmental officers and staff for search and seizure work**

A scheme for granting reward to departmental officers and staff was introduced with effect from the 1st April, 1985. This scheme has been revised vide Board's letter [F.No.287/79/2005-IT\(Inv.\) dated 30.05.2007](#). The salient features of these schemes are given below.

#### **11.3.1. Reward Scheme of 1985**

**11.3.1.1.** The reward scheme of 1985 provides for grant of reward to the departmental officers for their performance in various areas of work, like, assessment, search and seizure and representation before the Income Tax Appellate Tribunal. This chapter discusses salient features of the scheme in so far as it is applicable to reward for search and seizure work. The scheme of 1985 is applicable to cases where search was carried out on or before 31.05.2003. The Board's letter [DOF No. 414/10/83-IT \(Inv. I\) dated 06.11.1985](#) must be referred to since it contains guidelines in this regard.

**11.3.1.2.** Some salient features of the scheme are as under:

- (1) Monetary reward for search work can be granted to the officers and staff of the Investigation Wing and the members of the search team in cases where the value of the assets seized is at least Rs.10 lakh in non-metropolitan towns and Rs.25 lakh in metropolitan towns (that is, Delhi, Mumbai, Chennai and Kolkata).
- (2) Grant of reward in a case should be based on the following considerations, if the other conditions mentioned in the Board's said letter dated 06.11.1985 are fulfilled:
  - (i) value of the seizure effected;
  - (ii) magnitude of evasion detected; and
  - (iii) special efforts or ingenuity displayed by the officer concerned
- (3) Where valuables have been seized, the officials entitled to reward would be,
  - (a) all members of the particular search team who have detected and seized valuables; and
  - (b) the concerned Additional DIT (Investigation), Joint DIT (Investigation), DDIT (Investigation), ADIT (Investigation) and Inspectors of the Investigation Wing.

The ratio of disbursement of the reward in such cases shall be at the rate of 40% of the final amount sanctioned to (a) above and balance 60% to (b) above.

- (4) The maximum amount of reward payable to departmental officers, members of staff and informant is ten per cent of the additional income brought to tax. This is the overall monetary limit and in no case can the amount of reward paid to the departmental officers and members of staff under the Board's aforesaid letter and to the informant under the relevant guidelines for grant of reward to informants, exceed the said monetary limit, that is ten percent of the additional income brought to tax.
- (5) Where there are no informers, the entire amount of reward will be payable to the officers and staff. However, where a reward is also payable to informers, the reward payable to officers and staff would be limited to five percent of the additional income brought to tax.
- (6) Where as a result of a search, the assessee itself discloses what was hitherto undisclosed income, excess of income returned over the income as per the books maintained, if any, shall be treated as additional income brought to tax. Where no books of account are maintained or though books are maintained but the income has not been arrived at, the excess of income returned over the mean of the last three years' returned income shall be treated as additional income brought to tax for purposes of computing the reward.
- (7) The stage of payment of reward for search and seizure work is as under:
  - (i) Where the assessment is completed on an agreed basis and the decision is not appealed against, the reward will be payable after the expiry of the period within which appeals could be filed.
  - (ii) Where the case is in appeal, fifty per cent of the reward admissible shall be paid to the eligible officers/staff after the order of the CIT(Appeals) is received.
  - (iii) In all other cases, final reward will be payable after the order of the Income-tax Appellate Tribunal is received.
- (8) Where, consequent upon a search under section 132, an assessment or reassessment has been made under section 158BC or section 158BD, the final reward, at the request of the processing unit of search may, notwithstanding anything contained in clause (ii) or clause (iii) of (7) above, be granted after completion of the assessment or reassessment on the basis of undisclosed income declared in the return filed under section 158BC/BD for the block period, provided that
  - (a) the tax on such income has been paid;
  - (b) the quantum of income declared in the return under section 158BC/158BD is not disputed in appeal filed, if any;

- (c) no application has been made to the Settlement Commission (now not in existence);
  - (d) the processing unit furnishes an undertaking to the effect that no further claim of reward shall be made on the income over and above such income, declared in the return under section 158BC/158BD; and
  - (e) one year has passed from the date of relevant assessment order under section 158BC or 158BD.
- (9) Where reward is sanctioned for search and seizure scrutiny assessment, the reward shall be shared between the officer and staff of the Investigation wing, Authorised Officer and Assessing Officer and his staff.
- (10) Only officers up to the rank of Additional Commissioner of Income Tax/Additional Director of Income Tax are eligible for grant of reward. Payment of reward depends upon the contribution made by the officials as a team as well as individually with regard to collection of intelligence, surveillance, effecting seizures, framing of assessments, etc. Due credit will be given to the staff employed in investigation and/or prosecution work resulting in conviction of persons involved.
- (11) Reward to officers and staff under this scheme is exempt from payment of income tax.
- (12) Reward under this scheme is purely an ex-gratia payment and the competent committee's discretion shall be final.
- (13) For searches carried out on or before 31.05.2003, the reward would be governed by the Reward Guidelines of 1985. However, the committee competent to grant such rewards will be as specified in the para 5 of revised guidelines for sanction of reward dated 30.05.2007.

### **11.3.1.3 Authority competent to grant reward to officers and members of staff**

**11.3.1.3.1.** The Board's aforesaid letter 06.11.1985, which lays down the scheme for grant of reward to departmental officers and staff, empowers the heads of department to sanction grant of suitable reward for search and seizure work if the conditions laid down for this purpose in the said letter are fulfilled. However, as provided in the said letter, such cases of grant of reward are required to be examined and approved by a competent committee as specified.

### **Procedure for processing the reward to officers and staff under 1985 Scheme**

**11.3.1.3.2.** The JDIT/Additional DIT (Investigation) will be responsible for initiating and processing proposals for grant of reward to officers and staff for search and seizure work. He should ensure that proposals are initiated and submitted to the competent authority to sanction reward promptly. The following points relating to submission of reward proposals and their processing merit a brief mention:

- (1) The Joint/Additional DIT (Investigation) should identify the officers and members of staff entitled to reward. The information about their names would be available in records like, *panchnama*, appraisal report and control room records.
- (2) The proposal should be prepared in the proforma prescribed for this purpose.
- (3) If any official entitled to reward has been transferred out after the search operation, his current designation and place of posting should be ascertained.
- (4) The proposal should clearly spell out as to how the various conditions mentioned in the scheme for grant of reward are fulfilled. This can also be reported in a separate note, which should be attached to the proposal/particulars in the prescribed form required to be submitted.
- (5) He should also report whether there was any informant or informants who furnished information in the case and whether he/they are entitled to any reward under the relevant guidelines for the grant of reward to informants.
- (6) In case any informant is entitled to any reward under any guidelines for the grant of reward to informants, proposal for grant of reward to officers and members of staff should be entertained only after reward matter of the informant has been processed.
- (7) The Joint/Additional DIT (Investigation) should forward the proposal to the DIT (Investigation).
- (8) The DIT (Investigation) should,
  - (i) if he is of the opinion that any further information or clarification is required from the Joint/Additional DIT (Investigation), call for such further information or, as the case may be, clarification;
  - (ii) if he is of the opinion that the officers and the members of staff named in the proposal are entitled to a reward but the amount of reward or its allocation amongst various departmental personnel has not been correctly worked out, prepare a fresh proposal and forward the same under his signature to the committee competent to approve grant of reward; and
  - (iii) even if the proposal submitted by the Joint/Additional DIT (Investigation) is in order, prepare a fresh proposal, based on the inputs available in the Joint/Additional DIT (Investigation)'s proposal and forward the same under his signature to the committee competent to approve grant of reward.
- (9) The competent committee should take appropriate decision on the proposal sent by the. DIT(Investigation). This may include the following:
  - (i) imposition of such conditions as the committee deems fit including the condition

that reward approved by the committee should be disbursed only after obtaining vigilance clearance from the concerned authorities in respect of each official;

- (ii) manner in which the reward granted should be distributed or allocated amongst various officers and member of staff;
- (iii) time-period within which reward should be disbursed; and
- (iv) submission of compliance report regarding disbursement of reward or such other matter(s) as may be identified by the committee.

**Note:** .DIT (Investigation) is now re-designated as Pr. DIT(Investigation)

### **11.3.2 Reward Scheme of 2007**

**11.3.2.1.** The scheme of reward to officers and staff has been revised through guideline dated 30.05.2007. This is a comprehensive guideline for grant of reward for various types of work like scrutiny assessments, search and seizure operations and assessments, surveys u/s133A, representation before ITAT, etc. In cases of search and seizure, this guideline is applicable to all the searches conducted on or after 31.05.2003. As far as the searches conducted prior to 31.05.2003 are concerned, the scheme of 1985 will continue to apply except that the committees for sanction of reward will be as per new guidelines dated 30.05.2007. For search and seizure cases, (a) the team processing the search and seizure operation, (b) the teams participating in the search and seizure action; and (c) the assessment unit doing the search and seizure assessment, would be eligible for reward. The basis for reward in search and seizure cases would be the 'Group' in respect of which the search and seizure action and survey action (carried out along with the search) is undertaken and by combining all the assessment years of that group covered under relevant provisions of the Act, including the assessment year pertaining to the year in which search was carried out. The reward proposal for the group shall be processed and decided simultaneously for all the three teams - the processing team, the team participating in the search action, and the assessment unit.

**11.3.2.2.** Some of the conditions for grant of reward in search and seizure cases are as follows:

- (i) The minimum tax collected on the undisclosed income detected as a result of search and seizure operation and assessed to tax in the assessments referred to in para above, should be as under.

| <b>S. No.</b> | <b>Pr. DIT (Inv.) conducting the search</b>                | <b>Tax collected (in Rs. lakh)</b> |
|---------------|------------------------------------------------------------|------------------------------------|
| 1             | Delhi and Mumbai                                           | 150                                |
| 2             | Ahmadabad, Bangalore, Chennai, Hyderabad, Pune and Kolkata | 100                                |
| 3             | Others                                                     | 75                                 |

- (ii) The total amount eligible for reward in a Group of cases would be upto 5% of the tax collected on the undisclosed income detected as a result of search and seizure operation and assessed to tax in the assessments, subject to an overall limit of Rs. 50 lakh.
- (iii) The amount on which such tax is collected has achieved finality in the appellate and/or revisionary proceedings.

**11.3.2.3.** The ratio of distribution of reward so sanctioned would be 40% to the team processing the search, 30% to the search teams and 30% to the Assessing Unit which has completed the assessments, subject to the monetary ceiling mentioned in Para 11.3.4. below. The reward proposal for the Group shall be processed and decided simultaneously for all the three teams - the processing team, the teams participating in the search action, and the assessment unit. However, if an officer/official is incidentally part of two or more teams, he would be eligible for reward from only one of the teams. The internal distribution of reward within the processing team and the search teams would be as under:

| Rank                 | Processing team (%) | Search teams (%) |
|----------------------|---------------------|------------------|
| Additional/Joint CIT | 40                  | —                |
| DCIT/ACIT            | 30                  | 40               |
| ITO                  | 15                  | 25               |
| ITIs                 | 10                  | 20               |
| Officials below ITI  | 5                   | 15               |

**11.3.2.4.** In case one or more levels was not involved in processing the search case or was not present in the search teams, no reward shall be given to such levels. The ratios for the other levels would, however, remain unchanged.

### **11.3.3. Authority competent to sanction reward to officers and members of staff**

With effect from 1st May, 2007, except for reward in special cases mentioned in para 7.1 of the scheme, all cases of reward to officers/officials shall be decided by Committees consisting of senior officers of the Income Tax Department. This also includes search and seizure cases.

### **11.3.4. Monetary Limits of reward of officers/officials**

**11.3.4.1.** The maximum of reward which an officer or an official can be sanctioned by the committee in a case, or a group of cases, as the case may be, would be as under, subject to on overall limit of Rs 15 lakh in the entire career of an officer/official:

| S.N. | Rank of Officer/official | Maximum reward (in Rs.) |
|------|--------------------------|-------------------------|
| 1    | Addl./Joint CIT          | 2.00 lakh               |
| 2    | DCIT/ACIT                | 1.50 lakh               |

|   |                    |           |
|---|--------------------|-----------|
| 3 | ITO                | 1.00 lakh |
| 4 | ITI                | 50,000    |
| 5 | Official below ITI | 30,000    |

### **11.3.5. Procedure for processing the reward to Officers and staff**

The general procedure for processing the reward proposals given in para 11.3.1.3.2. will be applicable to the proposals under the new scheme also. However, under the new scheme, the reward proposals are to be submitted by the DGIT/CCIT concerned in the check list given in the guideline of 2007.

### **11.3.6 Stage of grant of Reward**

**11.3.6.1.** Reward to officers/officials under the guideline of 2007 (Para 1 to 3 of the guideline) for assessments, search and seizure and survey actions shall be granted as under:

- (a) Where no appeal has been preferred against the assessment orders, reward may be granted after one year from the end of the year in which the relevant assessment order(s) was passed.
- (b) Where the assessment order is a subject matter of appeal, the reward would be sanctioned only after all appeals are finalised.
- (c) Where the case is before the Settlement Commission, the reward shall be payable after the order u/s 245D(4) has been received and the tax thereon has been paid. (Settlement Commission, has ceased to operate now.)

**11.3.6.2.** It is advisable that the reward proposals are processed and forwarded to the competent authority soon after the search operations are over for their timely processing. This helps in incorporating all relevant details by the team which has conducted search and seizure operations.

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### **Note to officers and officials**

The Search and Seizure Manual is an effort towards providing guidance to the officers of the Investigation Directorates tasked with the responsibility of conducting search and seizure operations in accordance with the provisions of the Income-tax Act, 1961 and Income-tax Rules, 1962, and various circulars, instructions and guidelines issued by the Central Board of Direct Taxes (Board) from time to time on the subject.

The manual envisages various situations, which might be encountered during Search and Seizure operations. However, the same may not be exhaustive. Further, the Manual is a broad guidance document to conduct certain processes of investigation under Income-tax Act, 1961, Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, Prohibition of Benami property Transaction Act, 1988 and associated rules.

Various aspects mentioned in this Manual are based on the extant instructions at the time of the writing of this manual, and would require appropriate adaptation in pursuance of issuance of any future instruction, guideline, circular, and notification, or any modification of the already issued and referred instructions, guidelines, circulars and notifications etc.

This manual is intended to provide broad and overall guidance to the field formation to be adapted further in unforeseen situations. Officers would come across situations which require processes and procedures to be improved/updated or specified in this manual. It would be appreciated if such suggestions could be sent to [usinv1-cbdt@nic.in](mailto:usinv1-cbdt@nic.in) to help in making this manual contemporary with continuous improvements.



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