

Repealed by Act 20 of 2000, S.2 (w.e.f. 6/2/02)
Act No. XXX of 1947

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 18th April 1947.)

An Act to provide for an investigation into matters relating to taxation on income.

WHEREAS it is expedient, for the purpose of ascertaining whether the actual incidence of taxation on income is and has been in recent years in accordance with the provisions of law, and the extent to which the existing law and procedure for the assessment and recovery of such taxation is adequate to prevent the evasion thereof, to make provision for an investigation to be made into such matters;

It is hereby enacted as follows:—

1. (1) This Act may be called the Taxation on Income (Investigation Commission) Act, 1947. Short title, extent and commencement.

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

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, "taxation on income" means any tax chargeable under the Indian Income-tax Act, 1922 (XI of 1922) or the Excess Profits Tax Act, 1940 (XV of 1940). Interpretation.

3. The Central Government may constitute a Commission to be called the Income-tax Investigation Commission (herein after referred to as the Commission) whose duties it shall be Constitution and functions of Commission.

(a) to investigate and report to the Central Government on all matters relating to taxation on income, with particular reference to the extent to which the existing law relating to, and procedure for, the assessment and collection of such taxation is adequate to prevent the evasion thereof;

(b) to investigate in accordance with the provisions of this Act any case referred to it under section 5 and report thereon to the Central Government.

4. (1) The Commission shall consist of a Chairman (being a person who is or has been a Judge of a High Court) and two other Commissioners, appointed by the Central Government. Composition of Commission.

(2) On the occurrence from any cause of a vacancy among the Commissioners, the Central Government may, if it thinks fit, appoint a person to fill the vacancy.

5. (1) The Central Government may, at any time before the 31st day of December 1947, refer to the Commission for investigation and report any case in which the Central Government has *prima facie* reasons for believing that a person has to a substantial extent evaded payment of taxation on income, together with such material as may be available in support of such belief. Power of Central Government to refer cases for investigation.

(2) If in the course of investigation into a case referred to it under sub-section (1), the Commission has reason to believe that some person other than the person whose case is being investigated has himself evaded payment of taxation on income, it may make a report to the Central Government stating its reasons for such

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belief, and on receipt of such report the Central Government may at any time refer the case of such other person to the Commission for investigation and report.

Powers of Commission

6. (1) The Commission shall have power to administer oaths, and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of witnesses and of persons whose cases are being investigated, compelling the production of documents and issuing commissions for the examination of witnesses, and shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898); and any reference in the said Chapter to the presiding officer of a Court shall be deemed to include a reference to the Chairman of the Commission.

(2) If in the course of any investigation under this Act it appears to the Commission to be necessary to examine any accounts or documents which it cannot itself conveniently examine, the Commission may authorise any person qualified in its opinion to make such examination to examine the accounts or documents and interrogate for that purpose any person having charge or custody thereof and make a report thereon to the Commission; and any person having charge or custody of such accounts or documents shall be bound to produce them to the person so authorised and to give to such person any information in respect thereof which the person so authorised may require.

(3) The Commissioners and all persons authorised by the Commission under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Procedure of Commission.

7. (1) The Commission shall, subject to the provisions of this Act, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private) and may act notwithstanding a vacancy in the number of the Commissioners.

(2) In making an investigation under clause (b) of section 3, the Commission shall act in accordance with the principles of natural justice, shall follow as far as practicable the principles of the Indian Evidence Act, 1872 (I of 1872), and shall give the person whose case is being investigated a reasonable opportunity of rebutting any evidence adduced against him.

(3) Any person whose case is being investigated the Commission may be represented by a pleader duly authorised to act on his behalf.

(4) Except with the previous sanction of the Central Government,—

(a) no suit, prosecution or other legal proceeding shall be instituted against any person in any civil or criminal court for any evidence given by him in any proceedings before the Commission, and

(b) no evidence so given shall be admissible in evidence against such person in any suit, prosecution or other proceeding before such Court.

5) No document shall be inadmissible in evidence in any proceedings before the Commission on the ground that it is not duly stamped or registered.

Repealed

(6) Nothing in section 54 of the Indian Income-tax Act, 1922 (XI of 1922) or in that section as applied to excess profits tax by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940) shall apply to the disclosure of any of the particulars referred to therein in any proceeding before the Commission or in any report made by the Commission to the Central Government or in any report made to the Commission by a person authorised under sub-section (2) of section 6.

8. (1) After considering any report made to it under clause (b) of section 3, the Central Government may, by order in writing, direct that proceedings to assess in respect of the income of any period commencing after the 31st day of December 1938 the person to whose case the report relates to income-tax, super-tax or excess profits tax shall be taken or reopened; and upon such a direction being made, such assessment proceedings may be taken and completed under the appropriate law, notwithstanding anything contained in section 34 of the Indian Income-tax Act, 1922 (XI of 1922), or section 15 of the Excess Profits Tax Act, 1940 (XV of 1940), or any other law, and notwithstanding any lapse of time.

Power to direct reopening of assessment proceedings.

(2) On a direction being made under sub-section (1), a copy of the report of the Commission, so far as it relates to the case of the person concerned, shall be furnished to him.

(3) Notwithstanding anything to the contrary contained in any other law, in any proceedings directed to be taken under sub-section (1), any evidence in the case adduced before the Commission or a person authorised by it under sub-section (2) of section 6 shall be admissible in evidence.

9. No act or proceeding of the Commission or any person authorised by it under sub-section (2) of section 6 shall be called in question in any manner by any Court, and no suit, prosecution or other legal proceeding shall lie against the Crown or any Commissioner or any other person for anything in good faith done or intended to be done under this Act.

Bar of jurisdiction.

10. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.