

THE GIFT-TAX ACT, 1958
ACT NO. 18 OF 1958¹
[15th May, 1958.]

An Act to provide for the levy of gift-tax. BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

Short title extent and commencement.

1. Short title extent and commencement. (1) This Act maybe called the Gift-tax Act, 1958.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 1st day of April, 1958.

Definitions.

2. Definitions. In this Act, unless the context otherwise requires,-

- (i) "Appellate Assistant Commissioner" means a person empowered to exercise the powers of the Appellate Assistant Commissioner of Gift-tax under section 8;
- 2[(ii) "Appellate Tribunal" means the Appellate Tribunal constituted under section. 252 of the Income-tax Act;
- (iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act and includes-
 - (a) every person in respect of whom any proceeding under this Act has been taken for the determination of gift- tax payable by him or by any other person or the amount of refund due to him or such other person;
 - b) every person who is deemed to be an assessee under this Act;
 - (c) every person who is deemed to be an assessee in default under this Act;
 - (iv) "assessment " includes reassessment;
- (iva) "assessment year " means the period of twelve months commencing on the 1st day of April, every year;]
- (v) "Board" means the ²[Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963]; (54 of 1963).

¹ This Act has been extended to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, with modifications, by Reg. 3 of 1963, s. 3 and Sch. (w.e.f. 1-4-1963). 2 Subs. by Act 53 of 1962, s. 2, for cls. (ii), (iii) and (iv) (w.e.f. 1-4-1963).

² Subs. by Act 54 of 1963, s. 5, for certain words (w.e.f. 1-1- 1964).

³[(va) "charitable purpose " includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit ;]

(vi) "Commissioner" means a person empowered to exercise the powers of a Commissioner of Gift-tax under section 9;

⁴[(via) "Commissioner (Appeals)" means a person empowered to exercise the powers of a Commissioner of Gift-tax (Appeals) under section 8A;]

(vii) "company" means a company as defined in section 3 of the Companies Act, 1956, (1 of 1956) and includes a foreign company within the meaning of section 591 of that Act;

²[(viia) "Director of Inspection" includes an Additional Director of Inspection, a Deputy Director of Inspection and an Assistant Director of Inspection;]

(viii) " donee " means any person who acquires any property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;

(ix) "donor" means any person who makes a gift;

(x) "executor " means an executor or administrator of the estate of a deceased person ;

(xi) "firm" has the meaning assigned to it in the Indian Partnership Act, 1932; (9 of 1932.)

(xii) "gift" means the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money's worth, and ⁵[includes the transfer or conversion of any property referred to in section 4, deemed to be a gift under that section] ;

(xiii) "Gift-tax Officer" means the Income-tax Officer authorised to perform the functions of a Gift-tax Officer under section 7;

⁶[(xiv) "Income-tax Act" means the Income-tax Act, 1961 ;] 43 of 1961. (43 of 1961.)

(xv) " Income-tax Officer " means a person appointed to be an Income-tax Officer under the Income-tax Act;

(xvi) " Inspecting Assistant Commissioner of Gift-tax " means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Gift-tax under section 10 ;

³ Ins. by Act 53 of 1962, s. 2 (w.e.f. 1-4-1963).

⁴ Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1978)

⁵ Subs. by Act 32 of 1971, s. 37, for certain words (w.e.f. 1-4-1972).

⁶ Subs by Act 53 of 1962, s. 2, for cl. (xiv) (w.e.f. 1-4-1963).

⁷[(xv) " Inspector of Gift-tax " means an Inspector of Income-tax empowered to work as an Inspector of Gift-tax under section 11 ;

(xvi) " legal representative " has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 ;] (5 of 1908.)

(xvii) " partner " has the meaning assigned to it in the Indian Partnership Act, 1932, (9 of 1932.) and includes a person who being a minor has been admitted to the benefits of partnership;

(xviii) " person " includes a Hindu undivided family or a company or an association or a body of individuals or persons, whether incorporated or not ; (xix) " prescribed " means prescribed by rules made under this Act ; (xx) " previous year ", in relation to any assessment year- (a)in the case of an assessee ⁸[having no source of income, profits or gains or] having a source of income, profits or gains in respect of which there is no previous year under the Income-tax Act, means the twelve months ending on the 31st day of March immediately preceding the assessment year ; (b)in the case of an assessee having different previous years under the Income-tax Act for different sources of income, profits or gains, means that previous year of twelve months determined as the previous year ⁹[under sub-clause (a) or sub-clause (b), as the case may be, of sub-section (1) of section 3 of the Income-tax Act or such period determined as the previous year under clause (c) of that sub-section, whichever expired last]; (c)in the case of any other assessee, means the previous year as defined in ¹⁰[section 3] of the Income-tax Act if an assessment were to be made under that Act for that year: ¹¹[Provided that where a person who has not been assessed under this Act for any assessment year makes a gift on a date which does not fall within a previous year as defined in sub-clause (a) or sub-clause (b) or sub-clause (c), the previous year shall be the twelve months ending on the 31st day of March immediately preceding the assessment year: Provided further that where an assessment has been made under this Act for any assessment year in respect of gifts made by an assessee during any previous year, the meaning of the expression " previous year " as then applicable to him shall continue to apply for any subsequent assessment year unless the assessee is allowed to vary it with

⁷ Ins. by Act 53 of 1962, s. 2 (w.e.f. 1-4-1963).

⁸ Ins. by Act 12 of 1959, s. 27 (w.e.f. 1-4-1959).

⁹ Subs. by Act 53 of 1962, s. 2, for certain words (w.e.f. 1-4- 1963).

¹⁰ Subs. by Act 53 of 1962, s. 2, for " clause (11) of section 2" (w.e.f. 1-4-1963).

¹¹ Ins. by Act 12 of 1959, s. 27 (w.e.f. 1-4-1959).

the consent of the Gift-tax Officer who may, in allowing any such variation, impose such conditions as he may think fit ;]

(xxi) " principal officer ", used with reference to a company or any association of persons, means-

(a) the secretary and treasurer, manager, managing agent, managing director or agent of the company or association ; or

(b) any person connected with the management of the affairs of the company or association upon whom the Gift-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

(xxii) " property " includes any interest in property, movable or immovable;

(xxiii) " taxable gifts " means gifts chargeable to Gift- tax under this Act;

(xxiv) "transfer of property " means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes-

(a) the creation of a trust in property;

(b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;

(c) the exercise of a power of appointment of property vested in any person, not the owner of the property, to determine its disposition in favour of any person other than the donee of the power ; and

(d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person;

CHAPTER II

CHARGE OF GIFT-TAX AND GIFTS SUBJECT TO SUCH CHARGE

3. Charge of gift-tax: Subject to the other provisions contained in this Act, there shall be charged for every ¹²[assessment year] commencing on and from the 1st day of April, 1958, a tax (hereinafter referred to as Gift-tax) in respect of the gifts, if any, made by a person during the previous year (other than gifts made before the 1st day of April, 1957) at the rate or rates specified in the Schedule.

4. Gifts to include certain transfers. ¹³[(1)] For the purposes of this Act,- (a) where property is transferred otherwise than for adequate consideration, the amount by which the market value of the property at the date of the transfer exceeds the value of the

¹² Subs. by Act 53 of 1962, s. 3, for "financial year" (w.e.f. 1-4- 1963).

¹³ Renumbered by Act 32 of 1971, s. 37 (w.e.f. 1-4-1972).

consideration shall be deemed to be a gift made by the transferor: ¹⁴[Provided that nothing contained in this clause shall apply in any case where the property is transferred to the Government or where the value of the consideration for the transfer is determined or approved by the Central Government or the Reserve Bank of India.]

(b) where property is transferred for a consideration which, having regard to the circumstances of the case, has not passed or is not intended to pass either in full or in part from the transferee, to the transferor, the amount of the consideration which has not passed or is not intended to pass shall be deemed to be a gift made by the transferor;

(c) where there is a release, discharge, surrender, forfeiture or abandonment of any debt, contract or other actionable claim or of any interest in property by any person, the value of the release, discharge, surrender, forfeiture or abandonment, to the extent to which it has not been found to the satisfaction of the Gift-tax Officer to have been bona fide, shall be deemed to be a gift made by the person responsible for the release, discharge, surrender, forfeiture or abandonment;

(d) where a person absolutely entitled to property causes or has caused the same to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation from or out of the said property, the amount of the appropriation used for the benefit of the person making the appropriation or for the benefit of any other person shall be deemed to be a gift made in his favour by the person who causes or has caused the property to be so vested.

¹⁵[(2) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has been converted by the individual into property belonging to the family through the act of impressing such separate property with the character Of property belonging to the family or throwing it into the common stock of the family (such property being hereafter in this sub-section referred to as the converted property), then, notwithstanding anything contained in any other provision of this Act or any other law for the time being in force, for the purpose of computation of the taxable gifts made by the individual, the individual shall be deemed to have made a gift of so much of the converted property as the members of the Hindu undivided family other than such individual would be entitled to, if a partition of the converted property had taken place immediately after such conversion.]

¹⁴ Ins. by Act 25 of 1975, s. 29 (w.e.f. 1.4.1974).

¹⁵ Ins. by Act 32 of 1971, s. 37 (w.e.f. 1-4-1972).

5. Exemption in respect of certain gifts. (1) Gift-tax shall not be charged under this Act in respect of gifts made by any person-

(i) of immovable property situate outside the territories to which this Act extends ;

(ii) of immovable property situate outside the said territories unless the person-

(a) being an individual, is a citizen of India and is ordinarily resident in the said territories, or

(b) not being an individual, is resident in the said territories, during the previous year in which the gift is made;

¹⁶[(iia) being an individual who is not resident in India, to any person resident in India, of foreign currency or other foreign exchange [as defined, respectively, in clause (c) and clause (d) of section 2 of the Foreign Exchange Regulation Act, 1947] (7 of 1947.) remitted from a country outside India in accordance with the provisions of the said Act, and any rules made thereunder, during the period commencing on the 26th day of October, 1965 and ending on the 28th day of February, 1966, or such later date as the Central Government may, by notification in the Official Gazette, specify in this behalf. Explanation.-For the purposes of this clause, the expression "resident in India" shall have the meaning assigned to it in the Income-tax Act;]

(iii) of property in the form of savings certificates issued by the Central Government, which that Government, by notification in the Official Gazette, exempts from gift-tax ;

¹⁷[(iiia) of property, in the form of National Defence Gold Bonds, 1980, not exceeding the value of such Bonds for an aggregate weight of five kilogrammes of gold in any previous year : Provided that the exemption conferred by this clause shall be available only to a person who has initially subscribed to the said Bonds;]

(iv) to the Government or any local authority. ¹⁸[or any authority referred to in clause (20A) of section 10 of the Income-tax Act]

(v) to any institution or fund established ¹⁹[or deemed to be established] for a charitable purpose to which the provisions of ²⁰[section 80G] of the Income-tax Act apply;

²¹[(va) (i) to such temple, mosque, gurdwara, church or other place as has been notified by the Central Government for the purposes of ²²[clause (b) of sub-section (2) of section

¹⁶ Ins. by Act 13 of 1966, s.41 (w.e.f. 1-4-1966).

¹⁷ Ins. by Act 41 of 1965, s.7.

¹⁸ Ins. by Act 66 of 1976, s. 28 (w.e.f. 1-4-1977).

¹⁹ Ins. by Act 21 of 1973, s. 21 (w.e.f. 1.4.1974).

²⁰ Subs. by Act 32 of 1971, s. 37, for "section 88" (w.e.f. 1-4-1968).

²¹ Ins. by Act 10 of 1965, s. 71 (w.e.f. 1-4-1965).

80G of the Income-tax Act] ; or (ii) by way of settlement on trust, of property the income from which, according to the deed of settlement, is to be used exclusively in connection with the temple, mosque, gurdwara, church or other place specified therein and notified as aforesaid;]

(vi) for any charitable purpose not falling within clause (v)—

(a) made at any time before the 1st day of April, 1958 ;or

(b) made at any time after that date subject, in respect of each, such gift, to a maximum of rupees one hundred in value and, in respect of such gifts in any one previous year to the same donee, to a maximum of rupees five hundred in value in the aggregate ;

(vii) to any relative dependent upon him for support and maintenance, on the occasion of the marriage of the relative, subject to a maximum of rupees ten thousand in value in respect of the marriage of each such relative;

(viii) to his or her spouse, subject to a maximum of ²³[rupees fifty thousand] in value in the aggregate in one or more previous years, the expression "spouse" in this clause, where there are more wives than one, meaning all the wives together;

(ix) of policies of insurance or annuities to any person (other than his wife) who is dependent upon him for support and maintenance, subject to a maximum of rupees ten thousand in value in the aggregate in one or more previous years of the benefits in respect of each such donee ;

(x) under a will;

(xi) in contemplation of death;

(xii) for the education of his children, to the extent to which the gifts are proved to the satisfaction of the Gift-tax Officer as being reasonable having regard to the circumstances of the case ;

(xiii) being an employer, to any employee by way of bonus, gratuity or pension or to the dependents of a deceased employee to the extent to which the payment of such bonus, gratuity or pension is proved to the satisfaction of the Gift-tax Officer as being reasonable having regard to the circumstances of the case and is made solely in recognition of the services rendered by the employee;

²² Subs. by Act 32 of 1971, s. 37, for certain words (w.e.f. 1-4-1972).

²³ Subs. by Act 5 of 1964, s. 52, for "rupees one lakh" (w.e.f. 1-4- 1964).

(xiv) in the course of carrying on a business, profession or vocation, to the extent to which the gift is proved to the satisfaction, of the Gift-tax Officer to have been made bona fide for the purpose of such business, profession or vocation ;

(xv) to any person in charge of any such Bhoodan or Sampattidan movement as the Central Government may, by notification, in the Official Gazette, specify; ²⁴* * * Provided that such gifts are in accordance with the practice, usage or tradition of the family to which the person making the gift belongs. ²⁵[(1A) Any reference in clause (v) or clause (vi) of sub-section (1) to charitable purpose in relation to a gift made on or after the 1st day of April, 1964 shall be construed as not including a purpose, the whole or substantially the whole of which is of a religious nature.]

(2) Without prejudice to the provisions contained in sub-section (1), gift-tax shall not be charged under this Act in respect of gifts made by any person during the previous year, subject to a maximum of rupees ²⁶[five thousand] in value.

(3) Notwithstanding anything contained in subsection (1) or sub-section (2), where either spouse makes any gifts out of any such gifts received by that spouse as fall within clause (viii) of sub-section (1), the gifts so made shall be deemed to be taxable gifts made by that spouse and nothing contained in sub-section (1) or subsection (2) shall apply in relation to any such gifts.

Explanation.-For the purposes of this section,- (a) an individual shall be deemed to be ordinarily resident in the territories to which this Act extends during the previous year in which the gift is made if during that year he is regarded as a resident but not as not ordinarily resident ²⁷[within the meaning of section 6 of the Income-tax Act, subject to the modification that references in that section to India shall be construed as references to the territories to which this Act extends]; (b) a Hindu undivided family, firm or other association of persons shall be deemed to be resident in the territories to which this Act extends during any previous year unless, during that year, the control and management of its affairs was situated wholly outside the said territories: (c) a company shall be deemed to be resident in the territories to which this Act extends during the previous year, if- (i)it is a company formed and registered under the Companies Act, 1956, (1 of 1956.) or is an existing company within the meaning of that Act ; or (ii)during that year, the control and management of that company was situated wholly in the said territories;

²⁴ Omitted by Act 54 of 1972, s. 6 (w.e.f. 1-4-1973)

²⁵ Ins. by Act 15 of 1965, s. 21 (w.e.f. 1.4-1964).

²⁶ Subs. by Act 19 of 1970, s. 27, for "ten thousand" (w.e.f.1-4-1971).

²⁷ Subs. by Act 53 of 1962, s. 4, for certain words (w.e.f. 1-4- 1963).

(d) "gifts made in contemplation of death" has the same meaning as in section 191 of the Indian Succession Act, 1925. (39 of 1925.)

6. Value of gifts, how determined. (1) The value of any property other than cash transferred by way of gift shall, subject to the provisions of sub-sections (2) and (3), be estimated to be the price which in the opinion of the Gift-tax Officer it would fetch if sold in the open market on the date on which the gift was made.

(2) Where a person makes a gift which is not revocable for a specified period, the value of the property gifted shall be the capitalised value of the income from the property gifted during the period for which the gift is not revocable.

(3) Where the value of any property cannot be estimated under sub-section (1) because it is not saleable in the open market, the value shall be determined in the prescribed manner. ²⁸[6A. Aggregation of gifts made during a certain period. Notwithstanding anything contained in this Act, where an assessee has made taxable gifts during any previous year and has also made taxable gifts (not being gifts made at any time before the 1st day of June, 1973) during any one or more of the four previous years immediately preceding such previous year, the gift-tax payable by him for the assessment year relevant to such previous year (hereafter in this section referred to as 'the assessment year) shall be determined in the following manner, namely.-

(a) the value of the taxable gifts made during any one or more of the four previous years immediately preceding such previous year shall be aggregated with the value of the taxable gifts made by the assessee during such previous year and gift-tax shall be calculated on the aggregate value at the rate or rates applicable for the assessment year;

(b) from the amount of gift-tax calculated under clause (a), there shall be deducted an amount equal to the gift-tax payable had the value of the taxable gifts made during one or more of the four previous years immediately preceding such previous year been aggregated and tax levied thereon at the rate or rates applicable for the assessment year, and the balance, shall be the amount of gift-tax payable by the 6A Aggregation of gifts made to the same donee during a certain period.

6A. [Aggregation of gifts made to the same donee during a certain period.] Rep. by the Finance Act, 1966 (13 of 1966), s. 41 (w.e.f. 1-4-1966).

CHAPTER III

GIFT-TAX AUTHORITIES

²⁸ Ins. by Act 41 of 1975, s. 106 (w.e.f. 1.4.1976)

7. Gift tax officers. Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any person shall perform the functions of a Gift-tax Officer under this Act in respect of that person: ²⁹[Provided that the where two or more Income-tax Officers have jurisdiction or exercise powers under the income-tax Act in respect of any person, they shall have concurrent jurisdiction and shall perform their functions of a Gift-tax Officer under this Act in respect of such person in accordance with such general or special. orders in writing as the-Commissioner or the Inspecting Assistant Commissioner authorised by the Commissioner in this behalf, may make for the" purpose of facilitating the performance of such functions.]

Explanation.-For the purposes of this section, the Income-tax Officer or Income-tax Officers having jurisdiction in relation to a person who has no income assessable to Income-tax under the Income-tax Act, shall be the Income-tax Officer or Income-tax Officers in respect of the area in which that person resides.]

³⁰[**7A.Power of Commissioner respecting specified areas, cases or persons.** (1) The Commissioner may, by general or special order in writing direct that such of the functions assigned to the Gift-tax officer by or under this Act as are specified in any such order may, in respect of any specified area or specified cases or classes of cases or specified persons or classes of persons, be performed by an Inspector of Gift-tax or any member of the ministerial staff, appointed to work under the Commissioner or any other Gift-tax authority subordinate to him and specified in such order, subject to such conditions, restrictions or limitations as may be specified there in: Provided that the Commissioner shall not, unless he is authorised in this behalf by the Board by general or special order in writing, make an order under this sub-section in relation to the functions of a Gift-tax Officer mentioned in the following provisions of "this Act, namely, sections 15, 16, 17, 19A, 20, 21, 21A, 23, 32, 33 and 36.

(2) For the purposes of any case or person or proceeding under this Act in respect of which or whom any order under sub-section (1) applies, references in this Act or in any rule made hereunder to the Gift-tax Officer shall be deemed to include references to the Inspector of Gift-tax or the member of the ministerial staff specified in such order.

³¹[**7AA.Concurrent jurisdiction of Inspecting Assistant Commissioner and Gift-tax Officer.** (1) The Commissioner. may, by general or special order in writing, direct that all

²⁹ Subs. by Act 41 of 1975, s. 107 (w.e.f. 1-10-75)

³⁰ Subs. by s. 35, *ibid.*, for section 7A (w.e.f. 1-4-1967).

³¹ Ins. by s. 108, *ibid.*

or any of the powers or functions conferred on or assigned to the Gift-tax Officer or Gift-tax Officers by or under this Act in respect of any area, or cases or classes of cases, or persons or class of persons, shall be exercised or performed concurrently by the Inspecting Assistant Commissioner.

(2) Where under sub-section (1), an Inspecting Assistant Commissioner exercises concurrent jurisdiction with one or more Gift-tax Officers in respect of any area, cases or classes of cases, persons or classes of persons, the Gift-tax Officer or Gift-tax Officers shall exercise the powers and perform the functions under this Act in relation thereto as the Inspecting Assistant Commissioner may direct.

(3) Without prejudice to the generality of the provisions contained in sub-section (2) of section 12, every Gift-tax Officer shall also observe and follow such instructions as may be issued to him for his guidance by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions in relation to any particular proceeding or the initiation of any proceeding under this Act: Provided that no instructions which are prejudicial to the assessee shall be issued before an opportunity is given to the assessee to be heard. Explanation.-For the purposes of this sub-section, no instruction as to the lines on which an investigation connected with the assessment should be made shall be deemed to be an instruction prejudicial to the assessee.

³²[(4) Where an order is made under sub-section (1) and the Inspecting Assistant Commissioner exercises the powers or performs the functions of a Gift-tax Officer in respect of any case or person or proceeding under this Act, references in this Act or in any rule made thereunder to the Gift-tax Officer shall be construed as references to the Inspecting Assistant Commissioner and any provision of this Act requiring approval or sanction of the Inspecting Assistant Commissioner shall not apply."]

³³[(1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more of the following officers subordinate to him, namely:-

(a) any Gift-tax Officer or Gift-tax Officers,

(b) any Gift-tax Officer or Gift-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner, to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant

³² Subs. by Act 29 of 1977, s. 39 & sch. V (w.e.f. 10.7.1978)

³³ Subs. by S. 109 *ibid*.

Commissioner) also subordinate to him and the Board may similarly transfer any case from-

- (i) any Gift-tax Officer or Gift-tax Officers, or
- (ii) any Gift-tax Officer or Gift-tax Officers having concurrent jurisdiction with the Inspecting Assistant Commissioner, to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) :

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from any Gift-tax Officer or Gift-tax Officers to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to any other Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) and the offices of all such officers are situated in the same city, locality or place:

Provided further that,--

(a) where any case has been transferred from any Gift-tax Officer or Gift-tax Officers to two or more Gift-tax Officers, the Gift-tax Officers to whom the case is so transferred shall have concurrent jurisdiction over the case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner or the Inspecting Assistant Commissioner, authorised by the Commissioner in this behalf, may make for the purpose of facilitating the performance of such functions,

(b) where any case has been transferred from any Gift-tax Officer or Gift-tax Officers (whether with or without concurrent jurisdiction with the Inspecting Assistant Commissioner) to two or more Gift-tax Officers with concurrent jurisdiction with the Inspecting Assistant Commissioner, the officers (including the Inspecting Assistant Commissioner) to whom the case is so transferred shall have concurrent jurisdiction over such case and shall perform their functions in accordance with such general or special orders in writing as the Board or the Commissioner may make for the purpose of facilitating the performance of such functions and the Gift-tax Officers shall perform their functions also in accordance with such orders or directions as the Inspecting Assistant Commissioner may make under section 7 or, as the case may be, under sub-section (2) of section 7AA.]

(2) The transfer of a case under sub-section (1) may be made at any stage of the proceedings, and shall not render necessary the re- issue of an notice already issued by the Gift-tax Officer or Gift-tax Officers from whom the case is transferred.

Explanation.-In this section and in section 7A, the word " case in relation to any person whose name is specified in any order made thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order, or which may, have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year.]

8.Appellate Assistant Commissioners of Gift-tax-The Board may empower as many persons as it thinks fit to' exercise under this Act the functions of an Appellate Assistant Commissioner of Gift-tax, and on being so empowered the Appellate Assistant Commissioners shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same areas or the same 875 persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.

³⁴[**8A.Commissioners of Gift-tax (Appeals)**- The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Gift-tax (Appeals), and on being so empowered the Commissioners (Appeals) shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Commissioners (Appeals) the same areas or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.]

9. Commissioners of Gift-tax. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Gift-tax, and an being so empowered the Commissioners of Gift-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Commissioners the same area, or the same persons or the same classes of persons they shall have concurrent jurisdiction [and shall perform such functions in relation to the said area or persons or classes of

³⁴ Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1978)

persons as the Board may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed].

³⁵[**9A. Directors of Inspection.** (1) The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Director of Inspection.

(2) A Director of Inspection shall be competent to make any enquiry under this Act and for this purpose, shall have all the powers that a Gift-tax Officer has under this Act in relation to the making of enquiries.

(3) Without prejudice to the provisions of sub-section (2), a Director of Inspection shall exercise such other functions of any Gift-tax authority as may be assigned to him by the Board.]

10. Inspecting Assistant Commissioners of Gift-tax. The Commissioner of Gift-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Gift-tax, and on being so empowered the Inspecting Assistant Commissioners of Gift-tax shall perform their functions' in respect of such areas or such persons or such classes of persons as the Commissioner may direct and where such directions have assigned to two or more Inspecting Assistant Commissioners the same area or the same persons or the same classes of persons ³⁶[they shall have concurrent jurisdiction and shall perform such functions in respect of the said areas or persons or classes of persons as the Commissioner may, by general or special order in writing, specify, for the distribution and allocation of the work to be performed].

³⁷[³⁸**11. Inspector of Gift-tax.** A Commissioner may empower any Inspector of Income-tax within the meaning of the Income-tax Act to work as an Inspector of Gift-tax under any other Gift-tax authority subordinate to him; and when he is so empowered, he shall perform such functions in the execution of this Act as are assigned to him by the Commissioner by an order, whether made under sub-section (1) of section 7A or otherwise, or by any other Gift-tax authority under whom he is appointed to work.]

³⁹[**11A. Commissioner competent to perform any function or functions.** In respect of any function to be performed by a Commissioner under any provision of this Act, in relation to an assessee, the Commissioner referred to therein shall,

³⁵ Ins. by Act 53 of 1962, s. 6 (w.e.f. 1-4-1963).

³⁶ Subs. by Act 20 of 1967, s. 35, for certain words (w.e.f. 1-4-1967).

³⁷ Subs. by Act 53 of 1962, s.7 for s.11 (w.e.f.1-4-1963)

³⁸ Subs. by Act 20 of 1967, S. 35, for s. 11 (w.e.f. 1-4-1967).

³⁹ Ins. by Act 19 of 1970, s. 27 (w.e.f. 1-4-1970).

(a) in a case where only one Commissioner has jurisdiction over such assessee, be such Commissioner;

(b) in a case where two or more Commissioners have concurrent jurisdiction over such assessee, be the Commissioner empowered to perform such function by the Board.]

⁴⁰[**11AA.]Gift-tax Officer competent to perform any function or functions.** In respect of any function to be performed by a Gift-tax Officer under any provision of this Act, in relation to any assessee, the Gift-tax Officer referred to therein shall,-

(a) in a case where only one Gift-tax Officer has jurisdiction over such assessee, be such Gift-tax Officer;

(b) in a case where two or more Gift-tax Officers have concurrent jurisdiction over such assessee, be the Gift-tax officer empowered to perform such function by the Board, or as the case may be, the Gift-tax Officer to whom such function has been assigned by an order of the Commissioner or of the Inspecting Assistant Commissioner of Gift-tax authorised by the Commissioner in this behalf.]

⁴¹[(c) in a case where two or more Gift-tax Officers have concurrent jurisdiction over such assessee in respect of such function. be the Gift-tax Officers empowered to perform such function by the Board or, as the case may be, the Gift-tax Officers to whom such function has been assigned by an order of the Commissioner or by an order or a direction of the Inspecting Assistant Commissioner under section 7 or, as the case may be, under sub-section (2) of section 7AA.]

⁴²[11B.]Control of Gift-tax authorities. (1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(2)Gift-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3)Inspectors of Gift-tax shall be subordinate to the Gift-tax Officers or other Gift-tax authority under whom they are empowered to work and to any other Gift-tax authority to whom the said officer or other authority is subordinate.

⁴⁰ Ins. by Act 20 of 1967, s. 35 (w.e.f. 1-4-1967).

⁴¹ Ins. by Act 41 of 1975, s. 110 (w.e.f. 1.10.1975)

⁴² Section 11A renumbered by Act 20 of 1967, S. 35 (w.e.f. 1-4-1967).

Explanation.-For the purposes of sub-section (1), "Director of Inspection" does not include a Deputy Director of Inspection or an Assistant Director of Inspection and for the purposes of sub-section

(2), "Director of Inspection" does not include an Assistant Director of Inspection.]

12. Gift-tax authorities to follow orders, etc., of the Board: ⁴³[(1)] All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board- Provided that no orders instructions or directions shall be given by the Board so as to interfere with the discretion of 5[the Commissioner (Appeals) or the Appellate Assistant Commissioner] in the exercise of his appellate functions.

⁴⁴[(2)] Every Gift-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by' the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction performs his functions.]

⁴⁵[**12A. Power of Commissioner of Gift-tax and of Inspecting Assistant Commissioner of Gift-tax to make enquiries under this Act:** The Commissioner of Gift-tax and the Inspecting Assistant Commissioner of Gift-tax shall be competent to make any enquiry under this Act and for this purpose, shall have all the powers that a Gift-tax Officer has under this Act in relation to the making of enquiries.)

CHAPTER IV ASSESSMENT

13. Return of gifts. (1) Every person who during a previous year has made any taxable gifts ⁴⁶[or is assessable in respect of the taxable gifts made by any other person under this Act] shall, before the thirtieth day of June of the corresponding assessment year, furnish to the Gift-tax Officer a return in the prescribed form and verified in the prescribed manner.

⁴⁷[(2)] In the case of any person who, in the Gift-tax Officer's opinion, is assessable under this Act whether in respect of the gifts made by him or by any other person during the previous year, the Gift- tax Officer may, before the end of the relevant assessment year, serve a notice upon him requiring him to furnish within thirty days from the date of service of the notice. a return of the gifts made by him or by such other person during

⁴³ S. 12 renumbered as sub-section (1) of that section by Act 53 of 1962. s.8 (w.e.f. 1-4-1963).

⁴⁴ Ins. by s. 8, *ibid.* (w.e.f.1-4-1963).

⁴⁵ Ins. by S. 9, *ibid.* (w.e.f. 1-4-1963).

⁴⁶ Ins. by s. 10, *ibid.* (w.e.f. 1-4-1963). 5 Subs. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1978)

⁴⁷ Subs. by Act 53 of 1962, s. 10, for sub-section (2) (w.e.f. 1-4- 1963).

the previous year in the prescribed manner and setting forth such other particulars as may be prescribed.]

(3) The Gift-tax Officer may in his discretion extend the date for the delivery of the return under this section.

14. Return after due date and amendment of return: If any person has not furnished a return within the time allowed under section 13, or having furnished a return under that section, discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

⁴⁸**[14A. Return by whom to be signed. The return made under section 13 or section 14 shall be signed and verified-** (a) in the case of an individual, by the individual himself where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf ; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

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

⁴⁹(c) in the case of a company, by the managing director thereof or where for any unavoidable reason such managing director is not able to sign and verify the return or where there is no managing director, by any director thereof;

(d) in the case of a firm, by the managing partner thereof or where for any unavoidable reason such managing partner is not able to sign and verify the return, or where there is no managing partner as such, by any partner thereof, not being a minor.]

(e) in the case of any other association, by any member of the association or the principal officer thereof ; and (f) in the case of any other person, by that person or by some person competent to act on his behalf.]

15. Assessment (1) If the Gift-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that a return made under section 13 or section 14 ⁵⁰[is correct and complete], he shall assess the value of the taxable gifts made by the assessee ⁵¹[and determine the amount of gift-tax payable by him or the amount refundable to him on the basis of such return].

⁴⁸ Ins. by Act 53 of 1962, s. 11 (w.e.f. 1-4-1963).

⁴⁹ 5 Subs. by Act 41 of 1975, s. 111 (w.e.f. 1-4-76).

⁵⁰ Subs. by s. 12, *ibid.*, for " is complete " (w.e.f. 1-4-1963).

⁵¹ Subs. by s. 12, *ibid.* for "and determine the amount Payable by him as gift-tax " (w.e.f. 1-4-1963).

(2) If the Gift-tax Officer is not so satisfied, he shall serve a notice on the assessee either to attend in person at his office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Gift-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points ⁵²[and after taking into account all relevant material which the Gift-tax Officer has gathered] shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the amount payable by him as gift-tax.

(4) For the purpose of making an assessment under this Act, the Gift-tax Officer may serve on any person who has made a return under sub-section (1) of section 13 or section 14, or upon whom a notice has been served under sub-section (2) of section 13, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Gift-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 13 or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Gift-tax Officer ⁵³[after taking into account all relevant material which he has gathered] shall estimate the value of taxable gifts to the best of his judgment and determine the amount payable by the person as gift-tax.

⁵⁴[(6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, the Gift-tax Officer may refer to a Valuation Officer the valuation of any property transferred by way of gift-

(a) in a case where, the value of the property as returned is in accordance with the estimate made by a registered valuer, if the Gift-tax Officer is of opinion, that the value so returned is less than its fair market value;

(b) in any other case, if the Gift-tax Officer is of opinion-

(i) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value. Of the property as returned or by more than such amount as may be prescribed in this behalf ; or

(ii) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do; and where any such references is made

⁵² Ins. by s. 12. *ibid.* (w.e.f. 1-4-1963).

⁵³ Ins. by Act 53 of 1962, s. 12 (w.e.f. 1-4-1963).

⁵⁴ Ins. by Act 45 of 1972, s. 21 (w.e.f. 1-1-1973)

the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24 section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957, shall with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Wealth-tax Officer under sub-section (1) of section 16A of that Act. Explanation-In this sub-section, "Valuation Officer" has the same meaning as in clause (r) of section 2 of 'the Wealth-tax Act, 1957]

16. Gift escaping assessment:(1) If the Gift-tax Officer- ⁵⁵[(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 13 of the gifts made by him or any other person in respect of which, he is assessable under this Act for any assessment year, or to disclose fully and truly all material facts necessary for assessment of the gifts made by him or such other person for that year any taxable gift has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise ; or]

(b) has, in consequence of any information in his possession reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a) that any taxable gift has escaped assessment for any year, whether by reason of under-assessment or assessment at too low a rate or otherwise he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 13, and. may proceed to assess or re-assess any taxable gift which has escaped assessment, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

(2) Nothing contained in this section limiting the time with-in which any proceedings for, assessment or re-assessment may be commenced shall apply to an assessment or re-assessment to 'be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 22, section 23, section 24, section 26 or section 28. 16A. Time limit for completion of assessment and reassessment.

16A. Time limit for completion of assessment and re-assessment. (1) No order of assessment shall be made under section 15 at any time after the expiration of a period

⁵⁵ subs. by s. 13, *ibid.*, for cl. (a) (w.e.f. 1-4-1963).

of- (a) four years commencing on and from the 1st day of April, 1975 or one year from the date of the filing of a return or a revised return under section 14, whichever is later, where the assessment year is an assessment year commencing before that date; (b) four years from the end of the assessment year in which the gifts were first assessable, or one year from the date of the filing of a return or a revised return under section 14, whichever is later, where the assessment year is an assessment year commencing on or after the 1st day of April, 1975,

(2) No order of assessment or re-assessment shall be made under section 16,- (a) where any proceeding for an assessment or a re-assessment is pending on the 1st day of April, 1975, at any time after the expiration of a period of four years commencing on and from that date; (b) where the assessment or re-assessment is to be made in a case falling within clause (a) of sub-section (1) of section 16 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, at any time after the expiration of a period of four years from the end of the assessment year in which the said notice was served; (c) where the assessment or re-assessment is to be made in a case falling within clause (b) of sub-section (1) of section 16 for which a notice has been served under that sub-section on or after the 1st day of April, 1975, after the expiration of a period of-- (i) four years from the end of the assessment year in which the gifts were first assessable, or (ii) one year from the date of service of such notice, whichever period expires later.

(3) Notwithstanding anything contained in subsections (1) and (2), an order of fresh assessment in pursuance of an order passed on or after the 1st day of April, 1975 under section 22, section 23 or section 24, setting aside or cancelling an assessment, may be made at any time before the expiry of four years from the end of the financial year in which the order under section 22 or section 23 is received by the Commissioner or, as the case may be, the order under section 24 is passed by the Commissioner.

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or reassessment made on the assessee in consequence of, or to give effect to, any finding or direction contained in an order under section 22, section 23, section 24, section 26 or section 28 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act and such assessment or re-assessment may, subject to the provisions of sub-section (3), be completed at any time.

Explanation I.-In computing the period of limitation for the purposes of this section- (i) the time taken in reopening the whole or any part of the proceeding or in giving an

opportunity to the assessee to be reheard under the proviso to section 38, or (ii) the period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded.

Explanation 2.-Where, by an order referred to in sub-section (4), any gift is excluded from the taxable gifts for an assessment year in respect of an assessee, then, an assessment of such gift for another assessment year shall, for the purposes of subsection (2) of section 16 and this section, be deemed to be one made in consequence of, or to give effect to, any finding or direction contained in the said order.]

⁵⁶[**17. Penalty for failure to furnish returns, to comply with notices and concealment of gifts, etc.** (1) If the Gift-tax Officer, Appellate Assistant Commissioner,⁵⁷[Commissioner (Appeals),] Commissioner or Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person-

(a) has without reasonable cause failed to furnish the return required to be furnished under sub-section (1) of section 13 or by notice given under sub-section (2) of section 13 or section 16 or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required by subsection (1) of section 13 or by such notice, as the case may be; or

(b) has without reasonable cause failed to comply with a notice under subsection (2) or sub-section (4) of section 15 ; or

(c) has concealed the particulars of any gift or deliberately furnished inaccurate particulars thereof, he or it may, by order in writing, direct that such person shall pay by way of penalty-

⁵⁸[(i) in the cases referred to in clause (a), in addition to the amount of the gift-tax, if any, payable by him, a sum equal to two, per cent. of the assessed tax for every month during which the default continued,^{59***}

Explanation.-In this clause, "assessed tax" means the gift-tax chargeable under the provisions of this Act as reduced by the amount, if any, for which credit is allowed under section 18.]

(ii) in the cases referred to in clause (b), in addition to the amount of gift-tax payable by him, a sum which shall not be less than ten per cent but which shall not exceed fifty per cent of the amount of the tax, if any, which

⁵⁶ Subs. by Act 53 of 1962 s. 14, for s. 17 (w.e.f. 1-4-1963)

⁵⁷ Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10.7.1978)

⁵⁸ Subs. by Act 26 of 1974, s. 18 (w.e.f. 1-4-1963)

⁵⁹ Omitted by S. 113, *ibid.* (w.e.f. 1-4-76)

would have been avoided if the return made by such person had been accepted as correct;

(iii) in the cases referred to in clause (c) in addition to any gift-tax payable by him, a sum which shall not be less than twenty per cent but which shall not exceed one and half times the amount of the tax, if any, which would have been avoided if the return made by such person had been accepted as correct.

(2) No order imposing a penalty under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.

(3) Notwithstanding anything contained in clause (iii) of sub-section (1), if in a case falling under clause (c) of that sub-section, the minimum penalty impossible exceeds a sum of rupees one thousand, ⁶⁰[the Gift-tax Officer shall not make any order for payment, by way of penalty, without the previous approval of the Inspecting Assistant Commissioner]

(4) An Appellate Assistant Commissioner, ⁶[a Commissioner (Appeals), a Commissioner or the Appellate Tribunal] on making an order under this section imposing penalty, shall forthwith send a copy of the same to the Gift-tax Officer.]

⁶¹[**17A. Penalty for failure to answer questions, sign statements, etc.** (1) If a person, -
- (a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question demanded of him by a Gift-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner ⁶[or a Commissioner (Appeals)] or a Commissioner in the exercise of his powers under this Act, or (b) refuses to sign any statement made by him in the course of any proceeding under this Act which a Gift-tax Officer or an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner ⁶[or a Commissioner (Appeals)] or a Commissioner may legally require him to sign, he shall pay, by way of penalty, a sum which may extend to one thousand rupees.

(2) If a person, without reasonable cause or excuse, fails to furnish within the time specified any statement or information which such person is bound to furnish to the Gift-tax Officer under section 37, he shall pay, by way of penalty, a sum which may extend to ten rupees for every day during which the failure continues.

⁶⁰ Subs. by Act 41 of 1975, s. 113 (w.e.f. 1-4-76).

⁶¹ Ins. by s. 114 *ibid*.

(3) No order shall be made under this section except by an Appellate Assistant Commissioner or an Inspecting Assistant Commissioner or 6[or a commissioner (Appeals)] or a Commissioner, and where a contravention, failure or default for which any penalty is impossible under this section occurs in the course of any proceeding before a Gift-tax Officer, the Gift-tax Officer shall refer the case to the Inspecting Assistant Commissioner for passing such orders as he deems fit.

(4) No order under this section shall be passed by any officer, referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such officer.]

⁶²[**18.Rebate on advance payments.** If a person making a taxable gift pays into the treasury within fifteen days of his making the gift any part of the amount of tax due on the gift calculated at the rates specified in the Schedule or, in a case where the provisions of section 6A are applicable to a gift, in the manner specified in that section, he shall, at the time of assessment under section 15, be given credit-

(i) for the amount so paid; and

(ii) for a sum equal to, one-ninth of the amount so paid, so however, that such sum shall in no case exceed one-tenth of the tax due on the gift.

Explanation.-If a person makes more than one taxable gift in the course of a previous year, the amount of tax due on any one of such gifts shall be the difference between the total amount of tax due on the aggregate value of all the taxable gifts so far made, including the taxable gift in respect of which tax has to be paid, calculated at the rates specified in the Schedule or, as the case may be, in the, manner specified in section 6A, and the total amount of tax on the aggregate value of all the gifts made during that year excluding the taxable gift in respect of which tax has to be paid, calculate the rates specified in the Schedule or, as the case may be in the manner specified in section 6A.]

⁶³[**18A.Credit for stamp duty paid on instrument of gift:** Where any stamp duty has been paid under any law relating to stamp duty in force in any State on an instrument of gift of property in respect of which the gift-tax payable exceeds one thousand rupees, the assessee shall be entitled to a deduction from the gift- tax payable by him of an amount equal to the stamp duty so paid or one-half of the sum by which the gift-tax payable, before making the deduction under this section, exceeds one thousand rupees, whichever is less.]

⁶² Subs. by s. 115, ibid. 6 Subs. & ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10.7.78)

⁶³ Ins. by Act 10 of 1965, s. 71 (w.e.f 1-4-1965).

CHAPTER V
LIABILITY TO ASSESSMENT IN SPECIAL CASES

19. Tax of deceased person payable by legal representative. (1) where a person dies, his executor, administrator, or other legal representative shall be liable to pay out

20. Assessment after partition of a Hindu undivided family. (1) Where, at the time of making an assessment, it is brought to the notice of the Gift-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Gift-tax Officer, after enquiry, is satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions, he shall record an order to that effect and he shall make assessments ⁶⁴[on the value of the taxable gifts] made by the family as such as if no partition had taken place and each member or group of members shall be liable jointly and severally for the tax assessed on the value of the taxable gifts made by the joint family as such.

(2) Where the Gift-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.

21. Liability in case of discontinued firm or association of persons. (1) Where a firm or association of persons liable to pay gift-tax has been discontinued or dissolved, the Gift-tax Officer shall determine the gift-tax payable by the firm or association of persons as such as if no such discontinuance or dissolution had taken place.

(2) If the Gift-tax Officer, the Appellate Assistant Commissioner ⁶⁵[the commissioner (Appeals)] or the Appellate Tribunal in the course of any proceedings under this Act in respect of any such firm or other association of persons as is referred to in sub-section (1) is satisfied that the firm or association is guilty of any of the acts specified in clause (a) or

clause (b) or clause (c) of sub-section (1) of section 17, he or it may impose or direct the imposition of a penalty in accordance with the provisions of that section.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm or a member of the association, as the case may be, shall be jointly and severally liable for the amount of tax or penalty payable, and all the provisions of Chapter VII, ,so far as may be, shall apply to any such assessment or imposition or 21A. Assessment of donee when donor cannot be found.

⁶⁴ Subs. by Act 58 of 1960, s. 3 and Sch. 11, for "on the amount of taxable gifts".

⁶⁵ Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1978)

⁶⁶[21A. Assessment of donee when donor cannot be found. (1) Where a Gift-tax Officer after using all due and reasonable diligence cannot find the donor who has made any taxable gifts, for the purpose of service of notice under sub-section (2) of section 13 or under section 16, the Gift-tax Officer may make an assessment of the value of all such taxable gifts made by him and determine the gift-tax payable by him and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the donor, require from the donee or donees any accounts, documents or other evidence which might, under the provisions of section 15, have been required from the donor.

(2) Where any assessment in respect of the taxable gifts made by the donor has been made under sub-section (1), every donee shall be liable for the gift-tax so assessed: Provided that where the donees are more than one, they shall be jointly and severally liable for the amount of the gift-tax so assessed: Provided further that the amount of the gift-tax which may be recovered from each donee shall not exceed the value of the gift made to him as on the date of the gift.

(3) The provisions of sections 13, 14 and 16 shall apply to a donee as they apply to any person referred to in those sections.]

CHAPTER VI

APPEALS, REVISIONS AND REFERENCES

22 Appeal to the Appellate Assistant Commissioner from order of Gift-tax Officer.

(1) ⁶⁷[Subject to the provisions of sub-section (1A), any person] (a) objecting to the value of ⁶⁸* * * taxable gifts determine under this Act', or

(b) objecting to the amount of gift-tax determined as payable by him under this Act ; or

(c) denying his liability to be assessed under this Act ; or (d) objecting to any penalty

imposed by the Gift-tax Officer under section 17 ; or (e) objecting to any order of the Gift-

tax Officer under sub-section (2) of section 20 ; or (f) objecting to any penalty imposed

by the Gift-tax Officer under ⁶⁹[sub-section (1) of section 221 of the Income-tax] as

applied under section 33 for the purposes of gift-tax; ⁷⁰[or] 2[(g) objecting to an order of

the Gift-tax Officer under section 34 having the effect of enhancing the assessment or

reducing a refund or an order refusing to allow the claim made by the assessee under

that section ; or (h) objecting to any fine imposed by the Gift-tax Officer

⁶⁶ Ins. by Act 53 of 1963, s.16 (w.e.f. 1-4-1963).

⁶⁷ Subs. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1987).

⁶⁸ The word " his " omitted by s. 17, *ibid.* (w.e.f. 1-4-1963)

⁶⁹ Subs. by Act 53 of 1962, s. 17, for " sub-section (1) of section 46 of the Income-tax Act " (w.e.f. 1-4-1963).

⁷⁰ Ins. by s. 17, *ibid.* (w.e.f. 1-4-1963).

under sub-section (2) of section 36;] may appeal to the Appellate Assistant Commissioner against the, assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner: Provided that no appeal shall lie under clause (f) unless the 'tax has been paid before the appeal is filed.

⁷¹[(1A) Notwithstanding anything contained in sub-section (1), any person- (a) objecting to the value of taxable gifts determined. under this Act or objecting to the amount of gift-tax determined as payable by him or denying his liability to be assessed under this Act where the value of taxable gifts determined on assessment exceeds two lakh rupees; or (b) objecting to any assessment or order referred to in clauses (a) to (h) (both inclusive) of sub-section (1) where such assessment or order has been made by an Inspecting Assistant Commissioner in exercise of the powers or functions conferred on or assigned to him under section 7AA; or (c) objecting to any penalty imposed under clause (c) of sub-section (1) of section 17 where the penalty has been imposed with the previous approval of the Inspecting Assistant Commissioner under sub-section (3) of section 17; or (d) objecting to any penalty imposed by an Inspecting Assistant Commissioner under section 17A. or (e) objecting to any order made by a Gift-tax Officer in the case of such persons or classes of persons as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct, may appeal to the Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and' verified in the prescribed manner: Provided that no appeal shall lie under clause (b) of this sub-section against any order referred to in clause (f) of sub-section (1) unless the tax has been paid before the appeal is filed. (1B) Every appeal against any assessment or order referred to in sub-section (1A) which is pending immediately before the, appointed day before an Appellate Assistant Commissioner or a, Commissioner and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with the appeal or matter from the stage, at which it was on that day: Provided that the appellant may demand that before proceeding further with the appeal or matter the previous proceeding or any part thereof be reopened or that he be re-heard. Explanation.-In this subsection, "appointed day" means the date appointed under section 39 of the Finance (No. 2) Act, 1977.]

⁷¹ Subs. by s. 18, *ibid.*, for sub-section (1) (w.e.f. 1-4-1963).

⁷²[(1C) Notwithstanding anything contained In sub-section (1), the Board may, by order In writing, transfer any appeal which is pending before an Appellate Assistant Commissioner and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred: Provided that the appellant may demand that. before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.]

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to, is communicated to him but the Appellate Assistant Commissioner or as the case may be, the commissioner (Appeals) may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(3)The Appellate Assistant Commissioner or as case may be, the commissioner (Appeals) shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Assistant Commissioner ⁷³[or, as the case may be, the commissioner (Appeals) may, - (a) at the hearing of an appeal allow an appellant to go into any ground of appeal not specified in the grounds of appeal; (b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by, the Gift-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commissioner ⁷⁴[or, as the case may be, the Commissioner (Appeals)] may pass such order enhancing the amount of gift-tax determined or penalty imposed: Provided that no order enhancing the amount of gift-tax deter- mined or penalty imposed shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

⁷⁵[(5A) In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order

⁷² Ins. by Act 21 of 1979, s. 27 (w.e.f.1-6-1979).

⁷³ Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1978).

⁷⁴ Ins. & Omitted by Act 29 of 1977, s.39 & Sch. V (w.e.f. 10-7- 1978).

⁷⁵ Ins. by Act 53 of 1962, s. 17 (w.e.f. 1-4-1963).

appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner ⁷⁴[or as the case may be, the Commissioner (Appeals)] by the appellant.

(5B) The order of the Appellate Assistant Commissioner ⁷⁴[or as the case may be, the Commissioner (Appeals)] disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.]

(6) A copy of every order passed by the Appellate Assistant Commissioner ⁷⁴[or as the case may be, the Commissioner (Appeals)] under this section shall be forwarded to the appellant and the Commissioner.

23. Appeal to the Appellate Tribunal. 2[(1) An assessee, objecting to an order passed by the Appellate Assistant Commissioner ⁷⁴[or the commissioner (Appeals)] under sections 17 or 17A or section 22 or sub-section (2) of section 36 ^{74***}, may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.]

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner ⁷⁴[or a Commissioner (Appeals)] under section 22 direct the Gift-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner. ⁷⁶[(2A) The Gift-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner ⁷⁴[or the Commissioner (Appeals)] has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross objections verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner ⁷⁴[or the Commissioner (Appeals)] and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1) or subsection (2).]

⁷⁷[(3) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross objections after the expiry of the relevant period referred to in sub-section (1) or subsection (2) or sub-section (2A) if it is satisfied that there was sufficient cause for not presenting it within that period.]

⁷⁶ Ins. by s. 18, ibid. (w.e.f. 1-4-1963).

⁷⁷ Subs. by Act 53 of 1962, s.18, for sub-section (3) (w.e.f. 1- 4-1963)

(4) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by ⁷⁸[a fee of one hundred and twenty-five rupees].

(5) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the amount of gift-tax determined or penalty imposed: Provided that no order enhancing the amount of gift-tax determined or penalty imposed shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement. ⁷⁹* * *

(9) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(10) Save as provided in section 26, any order passed by the Appellate Tribunal on appeal shall be final.

(11) The provisions of ⁸⁰[sub-sections (1), (4) and (5) of section 255 of the Income-tax Act] shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

24. Power of Commissioner to revise orders of subordinate authorities. (1) The Commissioner may, either on his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, pass such order thereon not being an order prejudicial to the assessee, as the Commissioner thinks fit: Provided that the Commissioner shall not revise any order under this sub-section in any case-

(a) where an appeal against the order lies to the Appellate Assistant Commissioner ⁸¹[or to the commissioner (Appeals)] or to the Appellate Tribunal and the time within which such appeal can be made has not expired or, in the case of an appeal to the Commissioner (Appeals) or to the Appellate Tribunal] the assessee has not waived his right of appeal;

⁷⁸ Subs. by Act 42 of 1970, s. 67 for "a fee of rupees one hundred" (w.e.f. 1-4-1971).

⁷⁹ Omitted by Act 45 of 1972, s. 22 (w.e.f. 1-1-1973)

⁸⁰ Subs. by Act 53 of 1962, s. 18, for " sub-sections (5), (7) and (8) of section 5A of the Income-tax Act " (w.e.f. 1-4-1963).

⁸¹ Ins. & Subs. by Act 29 of 1977, s. 39 & Sch. V. (w.e.f. 10-7- 1978).

(b) where the order is pending in appeal before the Appellate Assistant Commissioner or has been the subject of an appeal ⁸²[to the Commissioner (Appeals) or] to the Appellate Tribunal;

(c) where the application is made by the assessee for such revision unless-

(i) the application is accompanied by a fee of rupees twenty-five; and

(ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

(d) where the order is sought to be revised by the Commissioner on his own motion, if such order is made more than one year previously. Explanation.-For the purposes of this sub-section,-

(a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner, and

(b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (1) the Commissioner may call for and examine the record of any proceeding under this Act, and, if he considers that any order passed therein by a Gift-tax Officer is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

(3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.

⁸³[*Explanation.*-In computing the period of limitation for purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 38 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.]

⁸² Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10.7.1978)

⁸³ Added by Act 53 of 1962, s. 19 (w.e.f. 1-4-1963).

25. Appeal to the Appellate Tribunal from orders of enhancement by Commissioner. ⁸⁴[(1) An assessee objecting to an order passed by the Commissioner

⁸⁵[under section 17 or section 17A] or to an order of enhancement passed by him under section 24 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.]

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by ⁸⁶[a fee of one hundred and twenty-five rupees].

(3) The provisions of ⁸⁷[sub-sections (3), (5), (9) and (10)] section 23 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

26. Reference to High Court or Supreme Court. ⁸⁸[(1) The assessee or the

Commissioner may, within sixty days of the date upon which he is served with notice of an order under section 23 or section 25, by application in the prescribed form, accompanied, where the application is made by the assessee, by ⁸⁹[a fee of one hundred and twenty-five rupees] require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

(2) The Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period specified in sub-section (1), allow it to be presented within a further period not exceeding thirty days.]

(3) If, on an application made under sub-section (1), the Appellate Tribunal,- (a) refuses to state a case on the ground that no question of law arises, or (b) rejects it on the ground that it is time-barred, the applicant may, within ninety days from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the

⁸⁴ Subs. by Act 53 of 1962, s. 20, for sub-section (1) (w.e.f. 1-4-1963).

⁸⁵ Subs. by Act 41 of 1975, s. 117 (w.e.f. 1-4-1976).

⁸⁶ Subs. by Act 42 of 1970, s. 68, for certain words (w.e.f. 1-4-1971).

⁸⁷ Subs. by Act 45 of 1972, S.23 (w.e.f. 1-1-1973).

⁸⁸ Subs. by Act 53 of 1962, s. 21, for sub-sections (1) and (2) (w.e.f. 1-4-1963).

⁸⁹ Subs. by Act. 42 of 1970, s. 69, for certain words (w.e.f. 1-4-1971).

'High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that, if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(3A) If, on an application made under this section, the Appellate Tribunal is of the opinion that on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.]

(4) The statement to the High Court or the Supreme Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court or the Supreme Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modification therein as it may direct.

(6) The High Court ⁹⁰[or the Supreme Court], upon hearing any such case, shall decide the question of law raised therein, and in doing so, may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the grounds on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

⁹¹[(7) The cost of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.]

27.Hearing by High Court. When a case has been stated to the High Court under section 26, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges, if any:

⁹⁰ Ins. by Act 53 of 1962, s. 21 (w.e.f. 1-4-1963).

⁹¹ Subs. by s. 21, *ibid.*, for sub-sections (7), (8) and (9) (w.e.f. 1-4-1963).

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

28. Appeal to Supreme Court. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 26 in any case which the High Court certifies as a fit case for appeal to the Supreme Court.

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any Court subordinate to the High Court.

⁹²[**28A. Tax to be paid notwithstanding reference etc.:** Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case.

28B. Definition of High Court. In this Chapter, "High Court" means- (i) in relation to any State, the High Court of that State

⁹³[(ii) in relation to the Union territory of Delhi, the High Court of Delhi ;

(iia) in relation to the Union territory of Himachal Pradesh, the High Court of Punjab and Haryana up to and inclusive of the 30th April, 1967 and the High Court of Delhi thereafter ;]

(iii) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;

(iv) in relation to the Union territory of Andaman and Nicobar Islands, the High Court at Calcutta;

(v) in relation to the Union territory of Laccadive, Minicoy and Amindivi Islands, the High Court of Kerala;

[3[(va) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana.]]

⁹² Ins. by Act 53 of 1962, s.22 (w.e.f. 1-4-1963)

⁹³Subs. by the Punjab Reorganisation and Delhi High Court (Adaptation of laws on Union Subjects) Order, 1968, for cl. (ii) w.e.f. 1-11-1966).

CHAPTER VII PAYMENT AND RECOVERY OF GIFT-TAX

⁹⁴[**29. Gift-tax by whom payable.** Subject to the provisions of this Act, gift-tax shall be payable by the donor but when in the opinion of the Gift-tax Officer the tax cannot be recovered from the donor, it may be recovered from the donee: Provided that where the donees are more than one, they shall be jointly and severally liable for the amount of tax determined to be payable by the donor: Provided further that the amount of tax which may be recovered from each donee shall not exceed the value of the gift made to him as on the date of the gift.]

30. Gift-tax to be charged on property gifted. Gift-tax payable in respect of any gift comprising immovable property shall be a first charge on that property but any such charge shall not affect the title of a bona fide purchaser for valuable consideration without notice of the charge.

⁹⁵[**31. Notice of demand.** When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Gift-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable.

32. Recovery of tax and penalties. (1) Any amount specified as payable in a notice of demand under section 31 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice: Provided that, where the Gift-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum 'specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 31 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at ⁹⁶[twelve per cent] per annum from the day commencing after the end of the period mentioned in sub-section (1):

⁹⁴ Subs. by Act 53 of 1962, s. 23, for s. 29 (w.e.f. 1-4-1963).

⁹⁵ Subs. by s. 24, *ibid.*, for ss. 31, 32 and 33 (w.e.f. 1-4-1963).

⁹⁶ Subs. by Act 16 of 1972, s.52 (w.e.f. 1-4-1972).

⁹⁷[Provided that where as a result of an order under section 22, or section 23, or section 24, or section 25, or section 26, or section 28, or section 34, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.]

(3) Without prejudice to the provisions contained in sub-section

(2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Gift-tax Officer may extend the time for payment or allow payment by installments subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice, the assessee shall be deemed to be in default,

(5) If, in a case where payment by installments is allowed under sub-section (3), the assessee commits default in paying any one of the installments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other installment or installments shall be deemed to have been due on the same date as the installment actually in default.

(6) Where the assessee has presented an appeal under section 22, the Gift-tax Officer may in his discretion and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired as long as such appeal remains un-disposed of.

33. Mode of recovery. The provisions contained in ⁹⁸[sections 221 to 227, 228A] 229, 231 and 232 of the Income-tax Act and the Second and Third Schedule to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were provisions of this Act and referred to gift-tax and sums imposed by way of penalty, fine and interest under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under that Act and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax.

Explanation 1.-Any reference to sub-section (2) or sub-section (6) of section 220 of the Income-tax Act in the said provisions of that Act or the rules made thereunder shall be construed as references to sub-sections (2) and (6) respectively of section 32 of this Act.

⁹⁷ Ins. by Act 5 of 1964, s. 52 (retrospectively).

⁹⁸ Subs. by Act 16 of 1972, s. 53 (w.e.f. 1-4-1972).

Explanation II.-The ⁹⁹[Tax Recovery Commissioner and the Tax Recovery Officer referred to in the Income tax Act shall be deemed to be the Tax Recovery Commissioner and the Tax Recovery Officer] for the purposes of recovery of gift-tax and sums imposed by way of penalty, fine and interest under this Act.]

¹⁰⁰**[CHAPTER VIIA
REFUNDS**

33A.Refunds. (1) Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee the Gift-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

(2) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Gift-tax Officer is of the opinion that the grant of refund is likely to adversely affect the revenue, the Gift-tax Officer may, with the previous approval of the Commissioner withhold the refund till such time as the Commissioner may determine.

(3) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the Gift-tax Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at ¹⁰¹[twelve per cent] per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

¹⁰²[(3A) Where the whole or any part of the refund referred to in sub-section (3) is due to an assessee as a result of any amount having been paid by him after the 31st day of March, 1975, in pursuance of any order of assessment or penalty and such amount or any part thereof having been found in appeal or other proceeding under this Act to be in excess of the amount which such assessee is liable to pay as tax or penalty, as the case may be, under this Act, the Central Government shall pay to such assessee simple interest at the rate specified in sub-section (3) on the amount so found to be in excess from the date on which such amount was paid to the date on which the refund is granted: Provided that, where the amount so found to be in excess was paid in installments, such interest shall be payable, on the amount of each such installment or any part of such installment, which was in excess, from the date on which such

⁹⁹ Subs. by Act 32 of 1971, s. 37, for certain words (w.e.f. 1-4-1972).

¹⁰⁰ Ins. by Act 53 of 1962, s. 25 (w.e.f. 1-4-1963).

¹⁰¹ Subs. by Act 16 of 1972, s.52 (w.e.f. 1-4-1972).

¹⁰² Ins. by Act 41 of 1975, s. 118 (w.e.f. 1-10-1975)

installment was paid to the date on which the refund is granted: Provided further that no interest under this sub-section shall be payable for a period of one month from the date of the passing of the order in appeal or other proceeding: Provided also that where any interest is payable to an assessee under this sub-section, no interest under sub-section (3) shall be payable to him in respect of the amount so found to be in excess.]

(4) Where a refund is withheld under the provisions of sub-section (2), the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for a period commencing after the expiry of six months from, the date of the order referred to in that sub-section to the date the refund is granted.

(5) Where under any of the provisions of this Act, a refund is found to be due to any person, the Gift-tax Officer, Appellate Assistant Commissioner 1[, Commissioner (Appeals)] or commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable 1 Ins. by Act 29 of 1977, 39 & sch. V (w.e.f. 10.7.1978). 888G under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.)

CHAPTER VIII MISCELLANEOUS

¹⁰³**[34. Rectification of mistakes.** (1) With a view to rectifying any mistake apparent from the record—

- (a) the Gift-tax Officer may amend any order of assessment or of refund or any other order passed by him;
- (b) the Appellate Assistant Commissioner 2[or the Commissioner (Appeals)] may amend any order passed by him under sub-section (1) of section 17 or under section 22;
- (c) the Inspecting Assistant Commissioner may amend any order passed by him under sub-section (3) of section 17 ;
- (d) the Commissioner may amend any order passed by him under sub-section (1) of section 17 or under section 24 ;
- (e) the Appellate Tribunal may amend any order passed by it under sub-section (1) of section 17 or section 23 or section

¹⁰³ Subs. by Act 53 of 1962, S. 26, for s, 34 (w.e.f. 1-4-1963).

(2) Subject to other provisions of this section, the authority concerned-(a) may make an amendment under sub-section (1) of its own motion; and (b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is- the Appellate Assistant Commissioner¹⁰⁴[or the Commissioner (Appeals)] or the Appellate Tribunal by the Gift-tax Officer also.

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the Gift-tax authority concerned,

(5) Subject to the provisions of subsection (2) of ¹⁰⁵[section 33A], where any such amendment has the effect of reducing the assessment, the Gift-tax Officer shall make any refund which may be due to such assessee.

(6)Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Gift-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 31 and the provisions of this Act shall apply accordingly.

(7)No amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended.]

35. Prosecution. (1) If any person fails without reasonable cause,- (a) to furnish in due time any return of gifts under this Act (b) to produce, or cause to be produced, on or before the date mentioned in any notice under ^{106***} subsection (4) of section 15, such accounts, records and documents as are referred to in the notice; ^{103***} he shall, on conviction before a Magistrate, be punishable with fine which may extend to rupees ten for every day during which the default continues.

(2) If a person makes a statement in a verification in any return of gifts furnished under this Act or in a verification mentioned in section 22, 23 or 25 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall on

¹⁰⁴ Ins. by Act 29 of 1977, s. 39 & V (w.e.f. 10.7.1978).

¹⁰⁵ Subs. by Act 5 of 1964, s. 52, for "section 33 " (retrospectively),

¹⁰⁶ Omitted by Act 41 of 1975, s.119 (w.e.f. 1-4-1976).

conviction before a Magistrate, be punishable with simple imprisonment which may extend to one year, or with fine which may extend to rupees one thousand, or with both.

¹⁰⁷(2A) If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any gifts chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall, on conviction before a Magistrate, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.]

(3) A person shall not be proceeded against for an offence under this section except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution of proceedings compound any such offence.

¹⁰⁸[*Explanation.*-For the purposes of this section, " Magistrate means a Presidency Magistrate or a Magistrate of the first class.]

¹⁰⁹**[35A.Offences by companies.** (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,- (a) "company" means a body corporate, and includes- (i) a firm, and (ii) an association of persons or a body of individuals, whether incorporated or not; and (b) "director", in relation to- (i) a firm means a partner in

¹⁰⁷ Ins.by Act 53 of 1962, s.27 (w.e.f. 1-4-1963)

¹⁰⁸ Subs. by Act 53 of 1962, s. 27, for the Explanation (w.e.f. 1-4-1963).

¹⁰⁹ Ins. by Act 41 of 1975, s. 120 (w.e.f. 1-10-75).

the firm, (ii) an association of persons or a body of individuals, means any member controlling the affairs thereof.

35B. Offences by Hindu undivided families. (1) Where an offence under this Act has been committed by a Hindu undivided family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

35C. Section 360 of the Code of Criminal Procedure, 1973, and the Probation of offenders Act, 1958, not to apply. Nothing contained in section 360 of the Code of Criminal Procedure, 1973, or in the Probation of Offenders Act, 1958, shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age.]

36. Power regarding discovery, production of evidence, etc. (1) The Gift-tax Officer, the Appellate Assistant Commissioner, ¹¹⁰[the Commissioner (Appeals)] the Commissioner and the Appellate Tribunal shall, for the purpose of this Act, have the same powers as are vested in a Court' under the code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:- (a) discovery and inspection; (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath; (c) compelling the production of books of account and other documents ; and (d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or, document at the place or time, the authority empowered to issue such summons may impose upon him such fine not

¹¹⁰ Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10-7-1978).

exceeding five hundred rupees as it thinks fit, and fine so levied may be recovered in the manner provided in Chapter VII.]

37. Power to call for information. Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person, the Gift-tax Officer may serve a notice requiring such person, on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and that person shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Gift-tax Officer: Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Indian Evidence Act, 1872. (1 of 1872).

38. Effect of transfer of authorities on pending proceedings. Whenever in respect of any proceeding under this Act any Gift-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor: ¹¹¹[Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him he be re-heard.]

¹¹²**39. Computation of period of limitation.** In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.]

40. Service of notice. (1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were summons issued by a court under the Code of Civil Procedure, 1908. (5 of 1908).

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family be addressed to any member of the firm or to the manager or any adult male member of the family, and in the case of a company or association of persons be addressed to the principal officer thereof.

¹¹¹ Added by Act 53 of 1962, s. 29 (w.e.f. 1-4-1963).

¹¹² Subs. by S. 30, *ibid.*, for s. 39 (w.e.f. 1-4-1963).

¹¹³[(3) After a finding of total partition has been recorded by the Gift-tax Officer under section 20 in respect of any Hindu family, notices under this Act in respect of the gifts made by the family shall be served on the person who was the last manager of the Hindu family, or if such person is dead, then on all surviving adults who were members of the Hindu family immediately before the partition.

(4) Where a firm or other association of persons is dissolved, notices under this Act in respect of the gifts made by the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution.]

41. [Prohibition of disclosure of information.] Rep. by the Finance Act, 1964 (5 of 1964), s. 52 (w.e.f. 1-4-1964).

¹¹⁴**[41A.Publication of information respecting assesseees.** (1) If the Central Government is of opinion that it is necessary or expedient in the public interest to publish the names of any assesseees and any other particulars relating to any proceedings ¹¹⁵[or prosecutions] under this Act in respect of such assesseees it may cause to be published such names and particulars in such manner as it thinks fit.

¹¹⁶[(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Assistant Commissioner ¹¹⁷[or, as the case may be, the Commissioner (Appeals)] has expired without an appeal having been presented or the appeal, if presented, has been disposed of.] Explanation.-In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.

41B.Disclosure of information respecting assesseees. Where a person makes an application to the Commissioner in the prescribed form for any information relating to any assessee in respect of any assessment made under this Act, the Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or cause to be

¹¹³ Ins. by s.31, *ibid.* (w.e.f. 1-4-1963).

¹¹⁴ Subs. by Act 5 of 1964 s. 52 for ss. 41A and 41B w.e.f. 1-4-

¹¹⁵ Ins. and subs. by Act 41 of 1975, s.121 (w.e.f. 1-10-1975).

¹¹⁶ Subs. by s. 121, *ibid.* (w.e.f. 1.10.1975).

¹¹⁷ Ins. by Act 29 of 1977, S. 39 & Sch. V (w.e.f. 10-7-1978).

furnished the information asked for in respect of that assessment only and his decision in this behalf shall be final and shall not be called in question in any court of law.]

¹¹⁸ **[41C.Return of gifts, etc., not to be invalid on certain grounds.** No return of gifts, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of gifts, assessment, notice, summons or other proceeding, if such return of gifts, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.]

42. Bar of suits in civil court. No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against ¹¹⁹[the Government or] any officer of the Government for anything in good faith done or intended to be done under this Act.

¹²⁰**[43.Appearance before Gift-tax authorities by authorised representatives:** Any assessee who is entitled to or required to attend before any Gift-tax authority or the Appellate Tribunal in connection with any proceeding under this Act, except where he is required under this Act to attend in person, may attend by a person who would be entitled to represent him before any Income-tax authority or the Appellate Tribunal under section 288 of the Income-tax Act.]

¹²¹**[43A.Appearance by registered valuer in certain matters:** Any assessee who is entitled or required to attend before any Gift-tax Authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer. Explanation.-In this section, "registered valuer" has the same meaning as in clause (oaa) of section 2 of the Wealth-tax Act, 1957]

44.Agreement for avoidance or relief of double taxation with respect to gift tax.

¹²²[The Central Government may enter into an agreement with the Government of any reciprocating country- (a) for the avoidance or relief of double taxation with respect to gift-tax payable under this. Act and under the corresponding law in force in the

¹¹⁸ Ins. by S.122, *ibid.* (w.e.f. 1-10-1975).

¹¹⁹ Ins. by Act 5 of 1964, s. 52, (w.e.f. 1-4-1964).

¹²⁰ Subs. by Act 53 of 1962, s. 34, for s. 43 (w.e.f. 1-4-1963).

¹²¹ Ins. by Act 45 of 1972, s. 24 (w.e.f. 1-1-1973).

¹²² Subs. by Act 16 of 1972, s.54 (w.e.f. 1.4.1972).

reciprocating country, or (b) for exchange of information for 'the prevention of evasion or avoidance of gift-tax chargeable under this Act or under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or (c) for recovery of tax under this Act and under the corresponding law in force in that country, and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.]

Explanation.-The expression "reciprocating country " for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.

¹²³**44A. Rounding off of taxable gifts.** The amount assessed in accordance with the foregoing provisions of this Act as being the value of all taxable gifts shall be rounded off to the nearest multiple of ten rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter, if such amount is not a multiple of ten rupees, then, if the last figure in that amount is five or more, the amount shall be. increased to the next higher amount which is a multiple of ten and, if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the value of all taxable gifts of the assessee for the purposes of this Act.

44B. Rounding off of tax, etc. **44B. Rounding off of tax, etc.** The amount of gift-tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored.]

45. Act not to apply in certain cases. The provisions of this Act shall not apply to gifts made by-

(a) a Government company as defined in section 617 of the Companies Act, 1956; (1 of 1956.)

(b) a corporation established by a Central, State or Provincial Act ;

(c) any company (other than a private company as defined in section 3 of the Companies Act, 1956): (1 of 1956.) Provided that the affairs of the company or the shares in the company carrying more than fifty per cent of the total voting power were at no time during the previous year controlled or held by less than six persons;

¹²³ Ins.. by Act 42 of 1970, s. 70 (w.e.f. 1-4-1971).

(d) a company which is a subsidiary of and in which more than half the nominal value of equity share capital is held by a company referred to in clause (c);

¹²⁴(da) any company [other than a company to which clause (c) or clause (d) applies] to an, Indian company in a scheme of amalgamation;]

(e) any institution or fund the income whereof is exempt from income-tax under ¹²⁵[section 11 or section 12] of the Income-tax Act.

¹²⁶[Explanation 1].-For the purpose of computing the number of six persons referred to in the proviso to clause (c), persons who are related to one another as husband and wife, brother and sister, brothers, sisters or who are lineal descendants or ascendants of one another and persons who are nominees of any other person together with that other person shall be treated as a single person.

¹²⁷[Explanation 2.-For the purpose of clause (da), the term "amalgamation" shall have the meaning assigned to it in clause (1A) of section 2 of the Income-tax Act.]

¹²⁸[Explanation 3.-For the removal of doubts, it is hereby declared that the exemption admissible under clause (e) in relation to gifts made by an institution or fund referred to in that clause shall not be denied merely on either or both of the following grounds, namely- (i) that, subsequent to the gift, any part of the income of the institution or fund has become chargeable to tax due to non-compliance with any of the provisions of ¹²⁹[section 11 or section 12 or section 12A] of the Income-tax Act ;

(ii) that, under clause (c) of sub-section (1) of section 13 of the Income-tax Act, the exemption under ¹³⁰[section 11 or section 12] of that Act is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (h) of sub-section (2) of section 13 of the said Act where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent of the capital of that concern.]

46. Power to make rules. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

¹²⁴ Ins. by Act 20 of 1967, s. 35 ((w.e.f. 1-4-1967).

¹²⁵ Subs. by Act 16 of 1972, s. 55 (w.e.f. 1.4.1973).

¹²⁶ Explanation renumbered as Explanation 1 by Act 20 of 1967, s. 35 (w.e.f. 1-4-1967).

¹²⁷ Ins. by s. 35, *ibid.* (w.e.f. 1-4-1967).

¹²⁸ Ins. by Act 32 of 1971, s. 37 (w.e.f. 1-4-1971).

¹²⁹ Ins. by Act 42 of 1970, s. 71 (w.e.f. 1-4-1971).

¹³⁰ Subs. by Act 16 of 1972, s. 55 (w.e.f. 1.4.1973).

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for-(a) the manner in which the value of any property may be determined;

(b) the form in which returns under this Act shall be made and the manner in which they shall be verified;

(c) the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified ;

¹³¹[(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner ¹³²[or the Commissioner (Appeals)] may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Gift-tax Officer;

(d) the form of any notice of demand under this Act;

(e) the refunds of gift-tax paid in respect of gifts which are revoked on the happening of any specified event which does not depend on the will of the donor or of any amount paid under section 18;

[(ee) the procedure to be followed in calculating interest payable by assesseees or interest payable by the Government to assesseees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assesseees may be ignored;]

(f) the areas for which lists of values may be drawn up; (g) any other matter which has to be, or may be, prescribed for the purposes of this Act.

¹³³[(3) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assesseees.]

¹³⁴[(4) The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session

¹³¹ Ins by s.56, *ibid.* (w.e.f. 1-4-1972).

¹³² Ins. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 10.7.1978).

¹³³ Subs. by Act 53 of 1962, s. 36, for sub--section (4) (w.e.f. 1-4-1963).

¹³⁴ Subs. by Act 19 of 1970, s. 27, for the Sch. (w.e.f. 1-4- 1971).

for a total period of thirty days which may be comprised in one session ¹³⁵[or in two or more successive sessions] sessions, and, if, before the expiry of the session ¹³⁶[immediately following the session or the successive sessions aforesaid] both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

THE SCHEDULE
(See section 3)
RATES OF GIFT-TAX

- (1) Where the value of all taxable 5 per cent of the value such gifts does not exceed Rs. 20,000 gifts;
- (2) where the value of all taxable Rs. 1,000 plus 10 per cent. of gifts exceeds Rs. 20,000 but does the amount by which the value not exceed Rs. 50,000 of such gifts exceeds Rs. 20,000;
- (3) where the value of all taxable Rs. 4,000 plus 15 per cent of gifts exceeds Rs. 50,000 but does the amount by which the value not exceed Rs. 1,00,000 of such gifts exceeds Rs. 50,000;
- (4) where the value of all taxable Rs. 11,500 plus 20 per cent of gifts exceeds Rs. 1,00,000 but such amount by which the value does not exceed Rs. 2,00,000 of such gifts exceeds Rs. 1,00,000;
- (5) where the value of all taxable Rs. 31,500 plus 25 per cent. gifts exceeds Rs. 2,00,000 but of the amount by which the does not exceed Rs. 5,00,00 value of such gifts exceeds Rs. 2,00,000;
- (6) where the value of all taxable Rs. 1,06,500 plus 30 per cent gifts exceeds Rs. 5,00,000 but of the amount by which the does not exceed Rs. 10,00,000 value of such gifts exceeds Rs. 5,00,000;
- (7) where the value of all taxable Rs. 2,56,500 plus 40 per cent gifts exceeds Rs. 10,00,000 but of the amount by which the does not exceed Rs. 15,00,000 value of such gifts exceeds Rs. 10,00,000;

¹³⁵ Subs. by Act 41 of 1975, s. 123, for certain words (w.e.f. 1-4- 1976).

¹³⁶ Subs. by Act 26 of 1974, for sub sec. (3) s. 19.

(8) where the value of all taxable Rs. 4,56,500 plus 50 per cent gifts exceeds Rs. 15,00,000 but of the amount by which the does not exceed Rs. 20,00,000 value of such gifts exceeds Rs. 15,00,000;

(9) where the value of all taxable Rs. 7,06,500 plus 75 per cent gifts exceeds Rs. 20,00,000 of the amount by which the value of such gifts exceeds Rs. 20,00,000.