INCOME TAX AUTHORITIES

A. Income Tax Authorities under the Income Tax Act [Section 116]

1. Central Board of Direct Taxes (CBDT)
2. Director-General of Income Tax (DGIT) or Chief Commissioner of Income Tax (CCIT)
3. Directors of Income Tax (DIT) or Commissioners of Income Tax (CIT) or CIT (Appeals)
4. Additional Directors of Income-Tax (ADIT) or Additional Commissioners of Income-tax (ACIT) or ACIT (Appeals)
5. Joint Directors of Income Tax (JDIT) or Joint Commissioners of Income Tax (JCIT)
6. Deputy Directors of Income Tax (DDIT) or Deputy Commissioner of Income Tax (DCIT) or DCIT (Appeals)
7. Assistant Directors of Income Tax (ADIT) or Assistant Commissioners of Income Tax (ACIT)
8. Income Tax Officers (ITO)
9. Tax Recovery Officers (TRO)
10. Inspectors of Income Tax

B. Right to appoint Income Tax Authorities [Section 117]

Sec.117	Posts	Appointment by
(1)	Income Tax Authorities	Central Government
(2)	Income Tax Authorities below the rank of Assistant Commissioner or Deputy Commissioner	Board, Director-General, Chief Commissioner, Director, Commissioner
(3)	Executive or ministerial staff	Income Tax authority authorized by the Board

C. Control of Income Tax Authorities [Section 118]

Any income-tax authority or authorities shall be subordinate to such other income tax authority as may be specified in the notification by the Board.

D. POWERS OF INCOME TAX AUTHORITIES [section 119]

Instruction to subordinate **authorities:**

1. The Board may **issue orders** / instructions / directions to other income tax authorities **for proper** administration of the Act.
2. Such orders / instructions / directions are **binding on all** subordinate **authorities.**
3. No instruction shall be issued by the Board to:
   (a) **Make** a **particular** assessment or dispose of a **particular case** in a particular manner;
   (b) Interfere **with the discretion of CIT (Appeals)** in the discharge of his appellate functions.
4. **The Board may issue instructions for -**
   (a) **Proper and efficient** management of work of assessment.
   (b) **Collection of Revenue** / Issue / Intimation of penal proceedings.
5. **Powers of the Board with regard to relaxation of any provisions of law:**
   (a) Relaxation of any provisions of Section 139 / 143 / 144 / 147 / 148 / 154 / 155 / 158BFA/ 201 210 211 / 234A / 2348 / 234C / 271 / 273 except 115P and 115S
   (b) Further, general or special orders may be issued by the CBDT by way of relaxation of the provisions of sections 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ and 115WK **relating to assessment of Fringe Benefit Taxation.**

(c) To **avoid** genuine hardship to **assesses** - **acceptance** of an application of claim of any exemptions, deductions, refund or any relief after the expiry of the prescribed period under the Act.

(d) To **avoid genuine hardship** to **assessee** - **by** relaxing any requirements of Chapter IV or VI A.

6. **Duties of the Board:** Before relaxing any provision in the assessee's favour, the Board should satisfy that:

   (a) Non-compliance was due to any reasons beyond the control of the assessee,

   (b) The assessee complied with such requirements of the Act before the completion of assessment.

E. Powers of the Central Board of Direct Taxes (CBDT) under the various provisions of the Act.

Section	Powers
2(17)	Declare any Institution, Association or Body to be a Company.
2(18)	Declare a Company having no Share Capital as Company in which public is substantially interested.
11(1)(c)	Direct that income from house property held under Trust will not be included in the Total Income of the person in receipt of such income.
44AA	Notify compulsory maintenance of accounts for any profession.
80RRA	To prescribe the field in which the person may have specialized knowledge and experience to be called a 'technician'.
80U	Make rules and specify the permanent physical disability for deduction u/s 80U
118	Exercise control over Income-tax authorities
119	Issue orders, instructions and directions to subordinate authorities. Exceptions: (a) Order, instruct or direct any Income Tax authority to make assessment or to dispose a particular case in a particular manner. (b) Interfere with the discretion of the CIT (Appeals) in the exercise of appellate functions.
120	Direct Income Tax authorities regarding exercise of their powers and functions.
132	Specify the Income Tax authorities who are empowered to issue summons for search and seizure.
138	Require any authority, body or officer, to disclose information regarding the assessee.
246	Transfer or to authorize the CIT to transfer any appeal pending before First Appellate Authority.
288	Prescribe educational qualifications of Authorized Representatives.
293B	Condone delay in obtaining Board approval, wherever such approval is necessary.
295	Make rules for carrying out the purposes of the Act, subject to Central Government control.

F. Special powers u/s 119(2)

Sub-Section	**Powers**
(a)	Issue orders in certain cases by way of relaxation or otherwise to "any class of incomes or fringe benefits"
(b)	Extend time limit to admit an application or claim
(c)	Relax any requirement of Chapter IV or Chapter VIA

G. Powers of Director General/Director of Income Tax

Section	Powers
117	Appoint IT authority below the rank of AC/DC
119(2)	Give instructions to Income Tax Officers.
120	Direct the JC, AC, AD to function and assume powers of A.O.
127	Transfer cases from one or more A.O. subordinate to him to any other A.O. who is subordinate to him.
131(1A)	Enquire, if there exists any reasons to suspect concealment of income.
132(1)	Authorize any JD/JC/DD/DC/AD/AC/AO to conduct search and seizure.
132A	Requisition of books of accounts etc.
133A	Power of survey and collect useful and relevant information.
135	Make enquiry.

H. Powers of the Commissioner/Chief Commissioner of Income Tax:

In addition to the powers mentioned above, the Commissioner/Chief Commissioner enjoys the following additional powers:

Section	Powers
131	Discovery, production of evidence, etc
151(1)	Sanction re-opening of assessments after the expiry of four years
253(2)	Direct A.O. to prefer appeal to Tribunal against the order of the First Appellate Authority.
263	Revise any order passed by the A.O. which is prejudicial to the interest of revenue
264	Revise order passed by a subordinate authority not prejudicial to the interest of the assessee

I. Powers of Joint Commissioner of Income Tax

Section	**Powers**
131	Discovery, production of evidence, etc.
131(1A)	Enquire, if reasons exist to suspect concealment of income.
132	Search and Seizure
133	call for information
133A	Survey
133B	Collect information
134	Inspect register of companies
135	Make an enquiry
144A	Issue directions during the course of assessment proceedings.
	Sanction re-opening of assessment after expiry of 4 years, if the assessment is any section other than 143(3) and 147, made under

J. Powers of Assessing Officer:

Section	Powers
38	Determine the proportion of expenses for allowing deduction in respect of premises used Partly for the purpose of business or profession
89	Grant relief u/s 89(1) for arrears of salary received
131	Discovery, production of evidence etc.
132	Search and seizure
132A	Requisition of books of accounts
132B	Apply the assets seized and retained U/s.132 in satisfaction of existing liabilities under the Act.
133	Call for information
133A	Power to Survey.
133B	Collect certain information
134	Inspect register of companies
139A	Allot PAN
140A	Impose penalty for non-payment of self-assessment tax
142(2A)	Direct an assessee to get his accounts audited
143, 144	Make assessment
147	Reassess income which escaped assessment
154	Rectify mistakes apparent from the records
194, 195, 197	Grant certificate to an assessee to receive a payment without deduction of tax at source or deduction of tax at a rate lower than the prescribed rate.
221	Impose penalty for default in payment of tax
237, 240	Grant refund
245	Adjust refund against any demand of tax etc. outstanding against the assessee

L. JURISDICTION OF INCOME TAX AUTHORITIES [Section 120]

1. **Direction by CBDT:**
   (a) Income Tax authorities are required to exercise their powers and perform their functions in accordance with directions given by the Board.
   (b) Income - Tax authority higher in rank, if directed by Board, shall exercise the powers and perform tie functions of the Income - Tax authority lower in rank.
2. The directions of CBDT include direction to authorize any Income Tax authority to issue instructions to their subordinates.
3. **Criteria to be adopted for issue of instructions:** In issuing instruction or orders, the Board or the IncomeTax authority may adopt any one or more of the following criteria -
   (a) Territorial area
   (b) Person or classes of persons
   (c) Incomes or classes of incomes
   (d) Cases or classes of cases
4. **Other powers of the Board:** The Board can authorize any Director General or Director to perform such functions of any other Income Tax authority as may be assigned to him.
5. **Delegation of Powers to CCIT / DGIT** : The Board can also authorize Director General or Chief Commissioner or Commissioner to issue orders in writing to the effect that the functions

conferred or assigned to the Assessing Officer in respect of the above four criteria shall be exercised or performed by Joint Commissioner or Joint Director.

M JURISDICTION OF THE ASSESSING OFFICERS [Section 124]

The Assessing Officer has been vested with jurisdiction over any area or limits of such area -

1. If a person **carries on business or profession** only in that area, **In respect of that person;** or
2. If a person carries on business or profession in **more than one place,** then the **principal place of business** or profession situated in that area; or
3. In respect of any **other person residing within that area.**

N. SETTLEMENT OF JURISDICTION RELATING TO DISPUTES

1. Any **dispute relating to jurisdiction** to assess any person by an Assessing Officer shall be **determined by Director General /Chief Commissioner/Commissioner of Income Tax**
2. If the dispute is relating to areas within the jurisdiction of different **Director General /Chief Commissioner/ Commissioner,** then such issue is to be solved **mutually among themselves.**
3. If the above authorities are not in agreement among themselves such matter has **to be decided by the Board** or Director General/ Chief Commissioner/ **Commissioner authorized by the Board.**

O. RIGHTS OF THE ASSESSEE & DUTIES OF THE ASSESSING OFFICERS RELATING TO JURISDICTION

1. Rights of the Assesses:

The assessee has right to object and raise the question of jurisdiction of an Assessing Officer within the time prescribed under the following circumstances:

If he has already filed the return income u/s 139(1) or 115WD(1)- Within 1 month from the date of service of notice u/s 142(1) or 143(2) or before the completion of assessment whichever is earlier.

No return flied and notice issued u 142(1) or 148 or show cause notice for best judgment assessment u/s 144 or 115WD(2) / 115WH(1) / 115WF - Within the time allowed in notice u/s 142(1) or 148 or within the time specified in notice u/s 144 whichever is earlier.

2. **Duties of the Assessing Officer: If** the **assesses challenges the jurisdiction** of the Assessing Officer, and the Assessing Officer is not satisfied with the correctness of the assessee's claim, then he shall **refer the matter to the Director General/ Chief Commissioner or Commissioner** before the completion of the assessment.

P. POWERS OF THE INCOME TAX AUTHORITIES TO TRANSFER CASES [Section 127]

Transfer to another subordinate officer:

1. The Director General or Chief Commissioner or Commissioner has the **power to transfer cases with or without concurrent jurisdiction** from one or more subordinate Assessing Officer to other Assessing Officers.
2. Before transferring the case, the **assesses shall be given an opportunity of being heard.**
3. The above **authorities shall record the reasons** in writing for doing so.
4. Where the **Assessing Officer** from whom the case is transferred and the transferee Assessing Officer **do not fall under the control of the same Director General,** Chief Commissioner, Commissioner, then both the **jurisdiction officers mutually decide and paw necessary order.**
5. If **both the jurisdiction Commissioners are not in agreement,** then the matter shall be decided **by the Board or** any authority authorized by the Board.
6. **Transfer within local area:** It is **not necessary to give an opportunity to the assessee** if the case is transferred between Assessing Officers within the same city, locality or place.

7. The **transfer** of the case may be made **at any stage of the proceedings.**
8. **Any fresh notice not required:** It is not necessary to reissue any notice by the transferee Assessing Officer, which is already issued by the previous Assessing Officers.

Q. Duties of Income Tax authority and rights of the assessee in case of change of Income Tax Authority. [Section 129]

When an Income Tax authority ceases to exercise jurisdiction and is succeeded by another, then the successor shall continue the proceedings from the stage at which it was left-over by the preceding authority.

Right of **the assessee:** In case of change in Income Tax authority, the assessee may demand that before the proceeding be continued: (a) the previous proceedings or any part thereof be reopened again (b) he may be reheard before passing any order by the new authority.

R. OTHER POWERS OF INCOME TAX

Section	Particulars
	Authorities who can exercise the powers u/s 131 -
	Assessing Officer, Joint Commissioner of Income Tax, Commissioner of Income Tax (Appeals),
	Commissioner of Income Tax, Chief Commissioner of Income Tax
	Nature of Power - Power of Court under the code of civil procedure and power to
131(1)	• Discovery and inspection
	• Enforcing attendance of any person
	• Compelling production of books of accounts and documents
	• Issuing commissions
	Authorities who can exercise the Powers: Director General, Director, Joint Director,
	Deputy Director, Assistant Director or Authorized Officer
131(1A)	The above authorities can exercise the powers if they have reasons to suspect that income has been concealed or likely to be concealed irrespective of whether any proceeding in respect of the assessee is pending before him or any other authority or not
131(3)	The authority has the power to impound and retain books and documents for such period as it thinks fit.
	The Assessing Officer/Assistant Director/Deputy Director shall not. retain the books/ documents
	• Without recording reasons for doing so; and
	• For a period exceeding 15 days without prior permission of Chief Commissioner/ Commissioner/Director General/Director of Income Tax

S. POWERS OF INCOME TAX AUTHORITY TO CALL FOR INFORMATION. [Section 133]

The Assessing Officer, Joint Commissioner, Commissioner (Appeals) may require the followinq details:

Assessee	Information
Firm	Names, addresses of the partners of the firms and their respective shares
HUF	Names, addresses of the manager and the members of the family.
Trustee, guardian, agent	Names of the persons for or of whom he is trustee, guardian or agent and their addresses.

Any assessee	Name and addresses of persons to whom the following payments are made exceeding Rs.1,000 or more as may be prescribed: Rent, interest, commission, royalty, brokerage, annuity not taxable under the head "Salaries"
Broker, agent or any person concerned in the management of stock or commodity exchange	Names and addresses of all persons to whom any sum has been paid or received for transfer by way of sale, exchange or otherwise of assets; Details of such payments and receipts.
Any person including banking company or any officer thereof	Information, matters or statement of accounts and affairs, which will be useful or relevant to any proceeding under the Act.

In case where no proceeding is pending, the power in respect of an inquiry shall not be exercised by any authority below the rank of Director or Commissioner of Income Tax without the prior approval of the Director or Commissioner.

T. Section 133A - POWER TO REMOVE BOOKS DURING SURVEY

1. **Authority:** Commissioner, Joint Commissioner, Joint Director, Director, Assistant Director, Deputy Director and Assessing Officer or Tax Recovery Officer or Inspector of Income Tax.

   No action u/s. 133A(I) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner.

2. **Authorized arm of the Income Tax authority to survey:**
   (a) Any piece within the limits of the area assigned to the Income Tax Authority
   (b) Any place occupied by any person in respect of whom the Income Tax Authority exercises jurisdiction
   (c) Any place in respect of which the Income Tax Authority is authorized by the (higher) Income-Tax Authority covered under (a) and (b) above.

3. **Place & Time of survey:** Any place, whether principal place or not, of business or profession of the assessee.

Place of survey	Time of survey
Place of business or profession	During business hours
Any other place	After sunrise and before sunset
Place of function, ceremony or event	Any time after such function, ceremony or event

4. **Rights of the Income Tax Authority u/s. 133A**
   (a) Inspect books of accounts or other documents available at such place.
   (b) Check or verify and make inventory of the cash, stock, or other valuable article or thing found therein.
   (c) Obtain any information, which may be useful or relevant to any proceeding under this Act.
   (d) Record statement of any person, which may be useful or relevant to any proceeding under this Act.
   (e) Place marks of identification on books of accounts/other documents Inspected by the Income Tax Authority.
   (f) If the assessee refuses or evades, the Income Tax Authority shall have all powers u/s. 131(1) to enforce compliance.

(g) **Power to impound books etc.:** The Income Tax Authority has powers to Impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him.

Conditions:

Reasons for impounding books should be recorded in writing. Prior permission of CCIT/DGIT/CIT/DIT should be obtained for retention beyond **TEN DAYS** exclusive of holidays.

5. **Duties of the proprietor, employee or any other person available at the time of survey:**

   Afford necessary facility to the surveying official:

   (a) To inspect such books of accounts and other documents as they require and which may be available at such place.

   (b) To check or verify cash, stock or other valuable article or thing which may be found therein.

   (c) Furnish such information as he may require which may be helpful for or relevant to any proceeding under the Act.

6. **Places not to be entered [Circular No. 7D / 3.5.1.967]:**

   (a) Place where the Assessee does not carry on any business;

   (b) Business in residential premises of third parties;

   (c) Premises of a Chartered Accountant, a Pleader, an Income Tax Practitioner of whom the Assessee may be a client.

U. POWERS OF THE INCOME TAX AUTHORITY TO COLLECT CERTAIN INFORMATION u/s 133B

1. **Authority:** Joint Commissioner, Assistant Director, Deputy Director, Assessing Officer, and Inspector of Income tax authorized by the Assessing Officer,

2. **Area of the Income Tax Authority:**

   (a) Any building or place within the limits of the area assigned to the Income Tax Authority;

   (b) Any building or place occupied by any person in respect of whom the Income Tax Authority exercises jurisdiction.

3. **Place:**

   (a) Any place, whether principal place or not, of business or profession of the assessee.

   (b) Any other place where the books of accounts, or any part of cash or stock or other valuable article or thing relating to business or profession are kept

4. **Time of survey:** Hours during which such place of business is open for the conduct of business or profession.

5. **Rights of the Income Tax Authority:**

   (a) To collect prescribed information;

   (b) The Income Tax Authority has **no right to remove** from the building or place any books of account, other documents, cash, stock or other valuable article or thing.

6. **Consequences of non-compliance: [Section 272AA]**

   Failure to comply with the provisions of this section will attract a penalty of such amount as the Income Tax Authority may direct. Maximum penalty shall be Rs.1,000.

ILLUSTRATION: An Assessing Officer entered a hotel run by a person, in respect of whom he exercises Jurisdiction, at 8 p.m. for the purpose of collecting information, which may be useful for the purposes of the Act. The hotel is kept open for business every day between 9 am end 9 pm. The hotelier claims that the Assessing Officer could not enter the hotel after sunset The Assessing

Officer wants to take away with him the books of account kept at the hotel. Examine the validity of the claim made by the hotelier and the proposed action of the Assessing Officer with reference to the provisions of section 1338 of the Income lax Act, 1961.

1. **Section 133B:**
   (a) **Powers:**
   - **Survey:** Assessing Officer is **empowered to survey** the place of business or profession at hours during which such place of business is **open for the conduct of business or profession.**
   - **Collection of Information:** He is also empowered to collect prescribed information.

   (b) **Restriction on Power:** The AO has **no right to remove** any books of account, other documents, cash, stock or other valuable article or thing, from the place of survey.
2. **Analysis and Conclusion:**
   (a) **Validity of Entry into Hotel:** The AD entered the Hotel during its business hours at 8 p.m. (i.e. between 9 a.m. and 9 p.m.) In light of the above provision of law, claim made by Hotelier in this respect is not valid.
   (b) **Validity of Removing Books:** Assessing Officer has no right to take away the books of accounts kept at the hotel. Hence the proposed action of the Assessing Officer is beyond his authority.

V. Powers of income tax authorities to Inspect register of companies. [Sec 134]

1. **Officers Empowered:**
   (a) Assessing Officer
   (b) Joint Commissioner
   (c) Commissioner (Appeals) or
   (d) Any person subordinate to the above persons duly authorized by them (above persons) in writing.
2. **Power to Inspect:** The above officers may inspect or take copies of any Register of the Members, Debenture Holders or Mortgages of any Company of or an entry in such Register.

W. Powers of Income tax authorities to disclose information [Section 138]

1. **Furnishing of information:** The information received or obtained by the Income Tax Authority in performance of functions under this Act, may be furnished by the Board or any designated Income Tax Authority by a special or general order.
2. **Person to whom information has to be furnished:**
   (a) Any officer, authority or body performing functions under law relating to the imposition of any tax, duty or cess or to dealings in foreign exchange.
   (b) Any officer, authority or body performing functions under any other law, notified by the Central Government in public interest.
3. **Procedure:**
   (a) The prescribed authority can file an application to the Chief Commissioner or Commissioner in prescribed Form No.46.
   (b) If the Income Tax Authority is satisfied that in public interest such information has to be furnished to the applicant, then he may furnish such information in Form No.47.
   (c) The decision made by the Chief Commissioner or Commissioner shall be final.

Designated Officers: Chief Commissioner, Director General, Additional Commissioner, Additional Director, Joint Commissioner and Joint Director.