Amendments of this chapter given on Pg 268.

SEARCH & SEIZURE

Procedures of Search & Seizures : 132

* Who can Authorise Search & Seizure i.e. issue Search Warrants.

→ Director
→ Director General
→ Commissioner
→ Chief Commissioner
→ Additional Director/Commissioner } Empowered by Board
→ Joint Director/Commissioner

* When can Search & Seizure be authorised

"Reasons to believe"

- the person to whom summon or notice was issued → Has failed to produce books of A/c
- The person will not or would not produce any books of account or other documents if the summon or notice under section 131 or section 142(1) has been or might be issued.
- A person is in possession of any articles or things, which represents wholly or party the income, which has not been or which would not be disclosed by him.

* Powers of Authorised officer in case of Search & Seizure

→ Enter & Search any building, place, vessel, vehicle or aircraft
→ Breakopen the lock of any door, box, locker, safe, almirah (if keys are not available)
→ Search any person, who has got out or about to get in or is in the place of search and authorised officer has reasons to suspect that such person has secreted any books of A/c, other documents, money, bullion, jewellery or other valuable article or thing
→ Require any person, who is in control of any books of A/c in electronic form, to provide the password
→ Seize any such books of A/c, other documents, money, bullion, jewellery or other valuable article or thing found. However Stock-in trade cannot be seized.

ORDER BY AUTHORISED OFFICER

① Deemed / Constructive Seizure

When it is not praticable to take physical possession of any valuable article or thing and subject to its volume, weight or other physical charateristics. The Authorised officer may serve an order on the owner or the immediate possessor that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing

No Deemed Seizue for any stock-in trade** of the business

② Order of Restraint

When it is not practicable to seize any such books of A/c, other documents, money, bullion, jewellery or other valuable article or thing for reasons other than mentioned in ①, The authorised officer serve an order on the owner or the immediate possessor that he shall not remove, part with or otherwise deal with it except with previous permission of authorised officer.

↳ Such an order under section 132(3) shall not be in force for a period exceeding 60 days from the date of order.

PRESUMPTIONS →

Applicability
* Search & Seizure u/s 153A
* Survey u/s 133A
* Requisition u/s 132A

→ Books of A/c, other documents, money, bullion, jewellery or other valuable article or thing of any person in course of search

* Belongs to such person
* Contents of such books of A/c & documents are true**
* The Signature and every other part of such books of A/c in the handwriting of any particular person are in that person's handwriting.

* Period of Retention of Books of Accounts & other Documents

Maximum 30days from the date of the order of assessment under Section-153A. Unless the reasons for retaining the same are recorded in writing and approval of CCIT/CIT is obtained. (written reasons + CCIT/CIT Approval)

* Non-Jurisdictional Authorised officer Conducted the Search
↓
The books of A/c or assets were seized during proceedings —shall be handed over to→ Jurisdictional Assessing Officer of such person → within 60days from the date on which search was completed.

* Powers of Requisition (sec 132A)

Search earlier conducted by any officer under any law
+
Books of A/c & Asset seized by that officer

→ Requisition by A.O. (with prior approval of CIT/CCIT) to deliver such books & assets as early as possible → Books of A/c & Asset delivered → "Deemed" seizure by A.O. and provisions of search & seizure shall apply

* Application of Seized or Requisitioned Assets (sec 132B)
- ↳ Income tax / Wealth tax / Gift tax liability (Existing) {Not advance tax}
- ↳ Assessment U/s 153A
- ↳ Assessment of year of search
- ↳ Any other liability.

* Section 153A: Assessment in case of search & seizure

⊛ Any person on whom search is initiated under Section 132 → The Assessing officer shall issue Notice U/s 153A → Requiring him to furnish with period mentioned in Notice – ROI in respect of six assessment years immediately preceding the year of search (specified Period)

→ Assessment/Reassessment shall be made separately for the 6 AY under Section 153A → Any Pending proceedings U/s 147/148/149/151 shall be dropped, if search is conducted (Any appeal, revision or rectification proceedings shall remain in force) → All other provisions of Income-tax Act relating to Penalties, Int. U/s 23A/B/C and Prosecution shall also apply. → During Assessment, The tax shall be chargeable at the rates applicable to such an assessment year

⊛ If Assessment U/s 153A declared invalid on any ground, then the proceedings, which were dropped off stand revived from Date of receipt of order by the CIT.

⊛ Time limit for Completion of Asst. U/s 153A (sec 153B)

Particulars	Normal Period of Assessment	TPO reference
For 6 A.Y's preceding year of search	2 yr. from F.Y. end in which search was completed	2+1 = 3yr.
Year of search	— Same as above —	— Same as above —

Time limit for such other person in Section 153C

Particulars	Normal Period of Assessment	TPO Reference
For 6 A.Ys preceding year of search	2yr. from F.Y. end in which search was completed OR 1yr. from F.Y. end in which Books of A/c were handed over (LATER)	2+1 = 3yr.
		1+1 = 2yr.
Year of search	— Same as above —	Same as above

⊛ A.O. is satisfied that any money, bullion or books of A/c seized belongs to any other person (other than on whom search was conducted), then the A.O. shall hand over such assets to the Jurisdictional A.O. of that person, then Jurisdictional A.O. shall proceed against such other person as per section 153A and The assessment/reassessment pending on the date of handing over of Books of A/c, assets etc. shall abate (i.e. come to an end)