

MAHARASHTRA ACT No. XLI OF 1962.¹

[THE MAHARASHTRA AGRICULTURAL INCOME-TAX ACT, 1962.]

[15th December 1962]

Amended by Mah. 21 of 1964. (27-6-1964)†

Amended by Mah. 62 of 1975. (22-12-1975)†

An Act to provide for the imposition of a tax on agricultural income derived from land situated in the State of Maharashtra

Whereas, it is expedient to provide for the imposition of a tax on agricultural income derived from land situated in the State of Maharashtra ; It is hereby enacted in the Thirteenth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Agricultural Income-tax Act, 1962.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 1st day of April 1962.

2. In this Act, unless the context requires otherwise,—

(1) “ agriculture income ” means,—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in the State or is subject to a local rate assessed and collected by the officers of the Government as such ;

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause ;

(c) any income derived from any building² [owned and occupied] by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of³ [rent-in-kind of any land] with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on :

Provided that, the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land,⁴ [requires as a dwelling house], or as a store house, or other out-building ;

¹ For Statement of Objets and Reasons, see *Maharashtra Government Gazette*, 1962, Part V, pages 398-400.

² These words were substituted for the words “owned or occupied” by Mah. 21 of 1964, s. 2 (a).

³ These words were substituted for the words “rent-in-kind on any land” *ibid.*, 2 (b).

⁴ These words were substituted for the words “requires as dwelling house” *ibid.*, s.2(c).

† This indicates the date of commencement of Act.

Short title,
extent and
commencement.

Definitions.

(2) " assessee " means a person by whom agricultural income-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 assessment of his agricultural income or the agricultural income of any other person in respect of which he is assessable ;

(b) every person who is deemed to be an assessee under any provision of this Act ;

(3) " assessment " includes re-assessment ;

(4) " assessment year " or " year of assessment " means the period of twelve months commencing on the 1st day of April every year ;

(5) " Commissioner " means the person appointed to be the Commissioner of Agricultural Income-tax under Section 20 ;

(6) " company " means a company as defined in Section 3 of the Companies Act, 1956 and includes a company incorporated outside India and which has a place of business in the State which the State Government may, by general or special order, declare to be a company for the purposes of this Act ;

(7) " firm ", " partner " and " partnership have the same meanings respectively " assigned to them in the Indian Partnership Act, 1932, but the expression 'partner' shall also include any person who, being a minor, has been admitted to the benefits of partnership ;

(8) "Income-tax Act" means the Income-tax Act, 1961.

(9) " person " includes—

(a) an individual,

(b) a Hindu undivided family,

(c) a company,

(d) a firm,

(e) an association of persons or a body of individuals, whether incorporated or not, and

(f) every artificial judicial person, not falling within any of the preceding sub-clauses ;

(10) " prescribed " means prescribed by rules made under this Act ;

(11) " principal officer " used with reference to a company or any association of persons or any body of individuals means—

(a) the secretary, treasurer, manager or agent of the company, association or body ; or

(b) any person connected with the management or administration of the company, association or body upon whom an Agricultural Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

XLV of 1860. (12) "public servant" has the same meaning as in Section 21 of the Indian Penal Code ;

(13) "received" used with reference to the receipt of agricultural income by a person includes—

(a) receipt by an agent or servant on behalf of a principal or master, respectively,

(b) receipts by other persons which are deemed to be his receipts under the provisions of this Act,

and also includes receipts of agricultural income by way of adjustment of accounts with any other person ;

(14) "State" means the State of Maharashtra ;

(15) "total agricultural income" means the total amount of agricultural income referred to in Section 5 and computed in the manner laid down in this Act ;

(16) "written down value" means in respect of any irrigation or protective work, or any machinery, plant or other capital asset,—

(a) in the case of works constructed or assets acquired in the previous year, the actual cost to the assessee ;

(b) in the case of works constructed or assets acquired before the previous year, the actual cost to the assessee less all depreciation allowable to him under this Act in respect of such work, machinery, plant or other asset, as the case may be.

3. (1) For the purposes of this Act "previous year" means—

Definition of "previous year".

(a) the financial year immediately preceding the year of assessment ; or

(b) if the accounts of the assessee have been made up to a date within the said financial year then, at the option of the assessee, the twelve months ending on such date ; or

(c) in the case of any person or business or class of persons or business not falling within clause (a) or clause (b) such period as may be determined by the Commissioner in this behalf ; or

(d) in the case of a business newly set up in the said financial year, the period beginning with the date of the setting up of such business ; and

(i) ending with the said financial year, or

(ii) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, ending on that date, or

(iii) ending with the period, if any, determined under clause (c), as the case may be ; or

(e) in the case of a business newly set up in the twelve months immediately preceding the said financial year—

(i) if the accounts of the assessee have been made up to the date within the said financial year and the period from the date of the setting up of the business to such date does not exceed twelve months, then, at the option of the assessee, such period, or

(ii) if any period has been determined under clause (c), then, the period beginning with the date of the setting up of the business and ending with that period,

as the case may be ; or

(f) where the assessee is a partner in a firm and the firm has been assessed as such then, in respect of the assessee's share in the agricultural income of the firm, the period determined as the previous year for the assessment of the agricultural income of the firm.

(2) Where an assessee has newly set up a business in the said financial year and his accounts are made up to a date in the year of assessment in respect of a period not exceeding twelve months from the date of such setting up, then, notwithstanding anything contained in sub-clause (iii) of clause (d) of sub-section (1), the assessee shall, in respect of that business, at his option, be deemed to have no previous year for the said year of assessment under that clause and such option shall, in relation to the immediately succeeding assessment year, have effect as an option exercised under sub-clause (i) of clause (e) of sub-section (1).

(3) Subject to the other provisions of this section, an assessee may have different previous years in respect of separate sources of his agricultural income.

(4) Where in respect of a particular source of agricultural income or in respect of a business newly set up, an assessee has once exercised the option under clause (b), or sub-clause (ii) of clause (d), or sub-clause (i) of clause (e), of sub-section (1) or has once been assessed, then, he shall not, in respect of that source or, as the case may be, business, be entitled to vary the meaning of the expression "previous year" as then applicable to him, except with the consent of the Agricultural Income-tax Officer and upon such conditions as the Agricultural Income-tax Officer may think fit to impose.

CHAPTER II

CHARGE OF AGRICULTURAL INCOME-TAX

Charge of
agricultural
income-tax
and rate.

4. (1) Agricultural income-tax shall be charged, at the rate specified in sub-section (2), for each financial year, in accordance with and subject to the provisions of this Act, in respect of the total agricultural income of the previous year or previous years of every person :

Provided that, agricultural income-tax shall not be charged on the agricultural income of the Central Government, or any State Government, or any local authority.

(2) Every person, whose total agricultural income of the previous year exceeds thirty-six thousand rupees, shall pay agricultural income-tax in respect of that income at the rate of fifty *naye paise* for each rupee in excess of thirty-six thousand rupees.

5. Subject to the provisions of this Act, the total agricultural income of any previous year of any person comprises all agricultural income derived from land situated within the State and received by him within or without the State, including any land revenue or any local or education cess payable in respect of such land under any law for the time being in force in the State, but does not include—

Scope of total agricultural income.

(a) any agricultural income derived from land situated outside the State ; or

(b) any agricultural income derived from property held under trust or other legal obligation wholly for religious or charitable purposes; and in the case of property so held in part only for such purposes or in the case of any wakf, the income applied thereto.

Explanation.—In this section, “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

CHAPTER III

COMPUTATION OF AGRICULTURAL INCOME-TAX AND ALLOWANCES

6. Save as otherwise provided by this Act, all agricultural income shall, for the purposes of charge of agricultural income-tax and computation of total agricultural income be classified under the following heads, namely :—

Heads of charge to agricultural income-tax.

(a) Agricultural Income from Rent or Revenue (being agricultural income as defined in sub-clauses (o) and (c) of clause (1) of Section 2 ;

(b) Agricultural Income from Agriculture (being agricultural income, as defined in sub-clause (b) of clause (1) of Section 2.

7. Agricultural income-tax shall be payable by an assessee under the head “Agricultural Income from Rent or revenue” in respect of all rent and revenue including any local cess, derived from land referred to in sub-clause (a) of clause (1) of Section 2 and all income mentioned in sub-clause (c) of clause (1) of that section, included in his total agricultural income and received by him in the previous year, but subject to the allowance in respect of any expenditure incurred by him in the previous year (not being expenditure in the nature of capital expenditure or personal expenditure) laid out wholly or exclusively for the purpose of deriving such agricultural income from such land.

Computation of tax and allowance under the head “Agricultural Income from Rent or Revenue”.

8. Agricultural income-tax shall be payable by an assessee under the head “Agricultural Income from Agriculture” in respect of all agricultural income derived from land referred to in sub-clause (b) of clause (1) of Section 2 included in his total agricultural income and received by him in the previous year, subject to the following allowances, namely :—

Computation of tax and allowances under the head “Agricultural Income from Agriculture”.

(1) the expenditure incurred by the assessee in the previous year—

(a) in cultivating such land ;

(b) in performing any process contemplated in item (ii) of sub-clause (b) of clause (1) of Section 2 for rendering the produce of such land fit to be taken to market ;

(c) in transporting such produce ;

(d) in maintaining agricultural implements and machinery in good repair and in providing for the up-keep of cattle for the purpose of such cultivation, process or transport ;

(2) any sum paid by him in the previous year in respect of such land on account of—

(a) land revenue or rent ;

(b) any local rate or cess (including any education cess) in respect of such land ;

(3) any sum paid by him in the previous year as interest on any loan taken by him, for raising the agricultural produce of such land, for rendering such produce fit to be taken to the market, or for transporting such produce to market ;

(4) where his interest in such land is subject to a mortgage or other capital charge, the amount of any interest paid by him in the previous year in respect of such mortgage or charge, and where such land has been acquired, reclaimed or improved by him by the use of borrowed capital, the amount of any interest paid by him in the previous year in respect of such capital ;

Provided that, the interest allowable under this clause shall not exceed the interest which the assessee is liable to pay in respect of such mortgage, charge or capital as a borrower under the Bombay Money-Lenders Act, 1946 ;

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of
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(5) any sum paid by him in the previous year on account of the maintenance of any irrigation or protective work or other capital asset for the benefit of the land from which such agricultural income is derived.

Explanation.— “Maintenance” includes current repairs and includes also in the case of protective dykes and embankments, all such works as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes ;

(6) depreciation at such rate as may be prescribed, in respect of any irrigation or protective work or other capital asset (including machinery or plant) constructed or acquired for the benefit of the land from which such agricultural income is derived or for the purpose of deriving such agricultural income from such land ;

(7) in respect of any machinery or plant used exclusively for agricultural purposes which has been sold or discarded, the amount by which the written down value of the machinery or plant exceeds the amount for which the machinery or plant is actually sold or its scrap value ;

Provided that such amount is actually written off in the books of the assessee ;

(8) any sum paid by him in the previous year as premium in order to effect any insurance against loss of, or damage to, such land or any crops to be raised or any cattle to be reared thereon ;

(9) any other expenditure of the assessee (not being in the nature of capital expenditure or personal expenditure) laid out wholly and exclusively for the purpose of deriving agricultural income from such land ;

(10) any other sum which may be prescribed.

9. (1) In the case of income which is partially agricultural income assessable under this Act, and partially income chargeable to income-tax under the head "profits and gains of business", under the Income-tax Act, agricultural income-tax shall be payable by an assessee in respect of the market value determined in the prescribed manner of any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilised as raw material or fuel in such business or the sale receipts of which are included in the accounts of the business, subject to any allowances which may be permissible under the provisions of this Act :

Income which is partially agricultural and partially from business.

Provided that,—

(a) where for the purposes of the assessment of income-tax under the Income-tax Act, the market value of the said produce has been determined, the market value as so determined, shall be taken to be the market value for the purposes of this sub-section ;

(b) where there is any common charge on both agricultural income assessable under this Act and income chargeable under the Income-tax Act, and such charge is an allowance permissible both under this Act and the Income-tax Act, then, if for the purpose of the Income-tax Act, the part of such charge which is to be deemed to be the allowance permissible under that Act has been determined under that Act, the remaining part of such charge shall be deemed to be the allowance to which agricultural income assessable under this Act is subject.

(2) For the purposes of the assessment of agricultural income-tax under this section or any rule made thereunder, a certified copy of an order of assessment under the Income-tax Act or a certified copy of an order of any appellate or revising authority or of any Court altering or amending such order of assessment under the provisions of that Act shall be conclusive evidence of the contents of such order.

10. Where an allowance admissible under Sections 7, 8 or 9 is in respect of a common payment made for the purpose of deriving agricultural income from land partially in, and partially without, the State, such allowance shall be calculated as such proportion to the common payment as the agricultural income derived from the land within the State bears to the agricultural income derived from all the land both within and without the State in respect of which such common payment is made.

Computation of allowances where lands extend beyond the State.

11. Agricultural income-tax shall not be payable on that part of the total agricultural income of a person which he derives as his share of agricultural income of a firm or association of persons which has paid the tax in respect of the said agricultural income.

Exemption from assessment.

12. No part of any allowance or relief which constitutes an allowance or relief from income-tax chargeable under the Income-tax Act, shall be included in computing the amount of any allowance or relief from assessment due under Sections 7, 8, or 9.

Prevention of double relief.

Inclusion to
prevent
evasion of
tax.

13. In computing the total agricultural income of any individual for the purposes of assessment, there shall be included,—

(a) so much of the total agricultural income of a spouse or minor child of such individual as arises directly or indirectly—

(i) from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart,

(ii) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual, otherwise than for adequate consideration ;

(b) so much of the total agricultural income of any person or association of persons as arises from assets transferred, otherwise than for adequate consideration to the persons or association by such individual for the benefit of his or her spouse or minor child or both.

CHAPTER IV

LIABILITY TO ASSESSMENT IN SPECIAL CASES

Liability of
guardian, trustee,
agent, receiver or
administrator.

14. Where any person receives any agricultural income derived from land—

(a) as a guardian, trustee or agent of any person being a minor, lunatic or idiot or person residing without the State interested in such land or the agricultural income derived therefrom ; or

(b) as a receiver or administrator appointed by or under the order of any Court in respect of such land or the agricultural income derived therefrom ;

any agricultural income-tax payable under this Act, on such income shall be levied upon and recoverable from such guardian, trustee, agent, receiver or administrator in like manner and to the same amount as would be leviable upon and recoverable from any such person if in direct receipt of such agricultural income ; and such guardian, trustee, agent, receiver or administrator shall be deemed to be the assessee in respect of the agricultural income-tax so payable by such minor, lunatic, idiot or person residing without the State or other person, as the case may be, and all the provisions of this Act shall apply accordingly.

Liability of Court
of Wards,
Administrator
General and
Official Trustee,
etc.

15. In the case of agricultural income chargeable to agricultural income-tax under this Act, which is received by a Court of Wards, an Administrator-General or an Official Trustee or any trustee or trustees appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including the trustee or trustees under any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), or a common manager, the agricultural income-tax payable under this Act on such income shall be levied upon, and recoverable from, such Court of Wards, Administrator-General, Official Trustee or such other trustee or trustees or such common manager in the like manner and to the same amount as it would be leviable upon, or recoverable from, any person on whose behalf such agricultural income is received and all the provisions of this Act shall apply accordingly.

16. Where the agricultural income received on behalf of any person by any trustee, agent, receiver, Court of Wards, Official Trustee or common manager referred to in Sections 14 and 15 is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act, shall be assessed on the total agricultural income of such person and the amount of tax as so assessed shall be levied upon, and recoverable from such trustee, agent, receiver, Court of Wards, Official Trustee or common manager and such person rateably according to the portion of the total agricultural income of such person received by such trustee, agent, receiver, Court of Wards, Official Trustee or common manager, as the case may be, and the portion received by such person.

Rateable .
payment
by guardian,
trustee, etc.

17. (1) In any case falling under the provisions of Sections 14 and 15, where any agricultural income or any part thereof is not specifically received on behalf of any one person, or where the individual shares of the persons on whose behalf such income is received are indeterminate or unknown, the tax shall be levied and recoverable at the rate provided by Section 4 on the total amount of such income.

Residuary
provisions
for computation
and recovery of
tax under
Sections.
14 and 15.

(2) Nothing contained in Sections 14 and 15 shall prevent either the direct assessment of a person therein referred to on whose behalf agricultural income is received, or the recovery from such person of the agricultural income-tax payable in respect of such income.

18. Where agricultural income is received by a firm or association of persons or a body of individuals and the business of such firm or association or body is discontinued or such firm or association or body is dissolved, every person who was a partner of such firm or member of such association or body at the time of such discontinuance or dissolution shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association or body and all the provisions of this Act shall, so far as may be, apply to such assessment.

Liability
in cases of
discontinued
firms or
associations.

19. Any person employed by or on behalf of a person residing without the State, or through whom in the course of any business connection such person is in the receipt of any agricultural income upon whom the Agricultural Income-tax Officer has caused a notice to be served of his intention of treating such person as the agent of the non-resident person, shall for the purposes of this Act be deemed to be such agent :

Agents to
include
persons
treated
as such.

Provided that, no person shall be deemed to be the agent of a non-resident person unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability.

CHAPTER V

AGRICULTURAL INCOME-TAX AUTHORITIES AND TRIBUNAL

20. (1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner of Agricultural Income-tax,

Agricultural
Income-tax
Authorities.

(2) To assist the Commissioner in the execution of his functions under this Act the State Government may appoint Additional Commissioner of Agricultural Income-tax (if any), and such number of,—

(a) Deputy Commissioners,

(b) Assistant Commissioners,

(c) Agricultural Income-tax Officers, and

(d) other officers and persons, and give them such designations (if any), as that Government thinks necessary.

(3) The Commissioner shall have jurisdiction over the whole State of Maharashtra, and an Additional Commissioner of Agricultural Income-tax, if any, be appointed, shall have jurisdiction over the whole of the State or where the State Government so directs, over any local area thereof. All other officers shall have jurisdiction over such local areas, as the State Government may specify.

(4) The Commissioner shall have and exercise all the power and perform all the duties, conferred or imposed on the Commissioner by or under this Act, and an Additional Commissioner, if any, be appointed, shall, save as otherwise directed by the State Government, have and exercise within his jurisdiction all the powers and perform all the duties conferred or imposed on the Commissioner by or under the Act.

(5) A Deputy Commissioner shall have and exercise in the area within his jurisdiction all the powers, and shall perform all the duties, conferred or imposed on the Commissioner, by or under this Act; but the Commissioner may, by order to be published in the *Official Gazette*, direct that any Deputy Commissioner, or all Deputy Commissioners generally, shall not exercise such powers or perform such duties as are specified in the order; and thereupon such Deputy Commissioner or, as the case may be, all Deputy Commissioners, shall cease to exercise those powers and perform those duties. The Commissioner may, in like manner revoke any such direction, and thereupon, the powers or duties exercisable or performable by such Deputy Commissioner or, as the case may be, all Deputy Commissioners before such direction was issued, shall restore to him or them.

(6) Assistant Commissioners, Agricultural Income-Tax Officers, and other officers shall, within their jurisdiction, exercise the powers conferred and perform the duties imposed on them (if any) by this Act and also exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to them either generally, or as respects any particular matter or class of matters.

(7) The State Government may, subject to such restrictions and conditions (if any), as it may impose, by notification in the *Official Gazette*, delegate to the Commissioner the powers (not being powers relating to the appointment of Additional Commissioners or Deputy Commissioners) conferred on that Government by sub-sections (2) and (3).

(8) No person shall be entitled to call in question the territorial jurisdiction of any officer or person appointed under sub-section (2), after the expiry of sixty days from the date of receipt by such person of any notice under this Act, issued by such officer or person. If within the period aforesaid, an objection is raised as to the jurisdiction of any such officer or person by submitting a memorandum to him, the officer or person shall refer the question to the Commissioner who shall after giving the person raising the objection a reasonable opportunity of being heard, make an order determining the question. The order made by the Commissioner shall be final.

(9) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner; and the subordination of officers (other than the Commissioner) and of persons, amongst themselves shall be such as is prescribed.

Bom. 21. Notwithstanding anything contained in the Bombay Sales Tax Act, 1959, the Tribunal constituted under that Act, shall also be the Tribunal for the purpose of hearing appeals under this Act, and accordingly, the provisions of Section 21 of that Act [including any regulations made thereunder with such modifications (if any) therein as circumstances may require] shall also apply to and in relation to such Tribunal, for the purposes of this Act.

CHAPTER VI

PROCEDURE FOR ASSESSMENT

22. (1) ¹[The Commissioner shall] on or before such date in each year as may be prescribed, give notice, by publication in such newspapers ²[as the Commissioner may, having regard to the circulation thereof in the area concerned, select in this behalf] and in such other manner as may be prescribed requiring every person whose total agricultural income during the previous year exceeded thirty-six thousand rupees to furnish ³[to the Agricultural Income-tax Officer concerned] within such period (being not less than sixty days), as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and setting forth (along with such other particulars as may be required by the notice) his total agricultural income during that year :

Provided that, on an application made in the prescribed manner, the Agricultural Income-tax Officer may extend the date for furnishing the return in the case of any person or class of persons ⁴[for a period not exceeding ninety days].

(2) In the case of any person whose total agricultural income is, in the Agricultural Income-tax Officer's opinion, of such an amount as to render such person liable to agricultural income-tax, the Agricultural Income-tax Officer may serve a notice upon him requiring him to furnish, within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth along with such other particulars as may be provided for in the notice, his total agricultural income during the previous year :

Provided that, on an application made in the prescribed manner, the Agricultural Income-tax Officer may extend the date for furnishing the return ⁴[for a period not exceeding ninety days].

⁵[(2A) Notwithstanding any extension of time for submission of return granted under the proviso to sub-section (1) or sub-section (2) before the commencement of the Maharashtra Agricultural Income-tax (Amendment) Act, 1964, every person whose agricultural income is assessable under section 9 and who has become liable to pay agricultural income-tax under this Act in respect of any previous year shall submit a return in the manner hereinbefore provided not later than ninety days from the date of such commencement.]

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¹ These words were substituted for the words " The Agricultural Income-tax Officer shall" by Mah. 21 of 1964, s. 3 (1) (a).

² These words were inserted, *ibid.*, s. 3 (1) (b).

³ These words were inserted, *ibid.*, s. 3 (1) (c).

⁴ These words were substituted for the portion beginning with the words " and shall " and ending with the words "under the Income-tax Act ". *ibid.*, s. 3 (1) (d).

⁵ Sub-section (2A) was inserted, *ibid.*, s. 3 (3).

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of these sub-sections discovers any omission or 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.

(4) The assessee furnishing a return as aforesaid shall first pay into a Government Treasury, in the manner prescribed, the whole of the tax due from him according to such return ; and where he furnishes a revised return and such revised return shows that a larger amount of tax than already paid is payable shall likewise pay, into a Government Treasury the extra amount of tax.

(5) The Agricultural Income-tax Officer may serve on any person, who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2), a notice requiring him, on a date to be therein specified (or such further dates as he may allow), to produce or cause to be produced such accounts or documents as the Agricultural Income-tax Officer may require :

Provided that, the Agricultural Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

Assessment.

23. (1) Where a return has been made under section 22, and the Agricultural Income-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that the return is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) Where a return has been made under section 22 but the Agricultural Income-tax Officer is not satisfied without requiring the presence of the assessee or the production of evidence that the return is correct and complete, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the Agricultural Income-tax Officer's Office or to produce or to cause to be there produced any evidence on which the assessee may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after hearing such evidence as the assessee may produce and such other evidence as that Officer may require, on specified points shall, by an order in writing, assess the total agricultural income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) The powers conferred by sub-sections (2) and (3) shall not, except with the permission of the Commissioner be exercised by the Agricultural Income-tax Officer in the case of agricultural income which is assessed under the provisions of sub-section (2) of Section 9 and regarding which an assessee has submitted together with his return under section 22, a certified copy of an assessment order under the Income-tax Act.

(5) If any person—

(a) Fails to make a return required by any notice given under sub-section (2) of Section 22, and has not made a return or a revised return under sub-section (3) of that section, or

(b) fails to comply with all the terms of a notice issued under sub-section (5) of Section 22, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this Section, or

(d) fails to produce before the Agricultural Income-tax Officer any order under the Income-tax Act or a certified copy thereof which may be necessary under the provisions of this Act for the purpose of enabling any assessment to be made under Section 9;

such officer shall make the assessment to the best of his judgment, and determine the sum payable by the assessee on the basis of such assessment.

24. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act, if he had not died.

Tax on
deceased
person
payable
by
representative.

(2) Where a person dies before the publication of the notice referred to in sub-section (1) of Section 22 or before he is served with a notice under sub-section (2) of that Section or Section 41, as the case may be, his executor, administrator, or other legal representative shall, on the serving of the notice under sub-section (2) of Section 22, or as the case may be, under Section 41, comply therewith, and the Agricultural Income-tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies without having furnished a return which he has been required to furnish under the provisions of Section 22 or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete, the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment ; and for this purpose may by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of Sections 9, 22 and 23 have required from the deceased person.

25. (1) Where at the time of making an assessment under Section 23, it is found that a change has occurred in the constitution of a firm, or that a firm has been newly constituted, the assessment shall be made on the firm as constituted, at the time of making the assessment.

Change in constitution of a firm or ownership of business.

(2) Where a person carrying on any business in the course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year :

Provided that, where the person succeeded cannot be found, the assessment of the agricultural income of the year in which the succession took place upto the date of the succession and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded, or where the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

26. (1) Where agricultural income is received by a company, firm or association ;

Assessment in case of discontinued firm or association.

of persons or body of individuals and the business through which such agricultural income is received by such company, firm, association or body is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the agricultural income so received in the previous year.

(2) Any person discontinuing any such business shall give to the Agricultural Income-tax Officer a notice of such discontinuance within thirty days thereof, and where any person fails to give the notice required by this sub-section, the Agricultural Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of persons or body of individuals upto the date of the discontinuance of its business.

27. (1) Where, at the time of making an assessment under Section 23, it is claimed by or on behalf of any member of a Hindu undivided family hitherto assessed as undivided that a partition has taken place among members or groups of members of such family, the Agricultural Income-tax Officer shall make due inquiry thereinto, and if a certified copy of a decree of a competent Civil Court

Assessment after partition of a Hindu undivided family.

for partition of the joint family property or a document purporting to show that there is separate possession and enjoyment of such property is produced, and in the case of a document other than a certified copy of the decree, the Agricultural Income-tax Officer is satisfied that such document has been acted upon by the parties thereof, or if the Agricultural Income-tax Officer is otherwise satisfied that the Hindu undivided family has ceased to exist as such, and the agricultural income is being enjoyed separately by the members or groups of the members of such family in definite shares, he shall record an order to that effect :

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Agricultural Income-tax Officer shall make an assessment of the total agricultural income received by or on behalf of the joint family as such, as if no partition had taken place, and each member or group of members shall, in addition to any agricultural income-tax for which he or it may be separately liable, be liable for a share of the agricultural income-tax on the agricultural income so assessed according to the portion of the joint family property allotted to him or it ; and the Agricultural Income-tax Officer shall make assessment accordingly on the various members and groups of members in accordance with the provisions of Section 23 :

Provided that all the members and groups of members whose joint family property has been partitioned during the previous year shall be liable jointly and severally for the agricultural income-tax assessed on the total agricultural income received by or on behalf of the joint family as such up to the date of partition.

(3) Where such an order has not been passed in respect of a Hindu family hitherto assessed as undivided, such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.

Cancellation
of assessment
where
cause is
shown.

28. Where an assessee within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Agricultural Income-tax Officer, that he was prevented by sufficient cause from making the return required by Section 22 or that he did not receive the notice issued under sub-section (5) of that section or sub-section (2) of Section 23 or that he had not a reasonable opportunity to comply or was prevented by sufficient cause from complying, with the terms of the last mentioned notice, the Agricultural Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

Penalty for
concealment
of income.

29. (1) If the Agricultural Income-tax Officer, Assistant Commissioner, Com-missioner or the Tribunal in the course of any proceedings under this Act, is satisfied that any person—

(a) has without reasonable cause or excuse failed to furnish a return of his total agricultural income which he was required to furnish by a notice given under sub-section (1) or sub-section (2) of Section 22 or Section 41 or has without reasonable cause or excuse failed to furnish it within the time allowed and in the manner required by such notice ; or

(b) has without reasonable cause or excuse failed to comply with a notice under sub-section (5) of Section 22 or sub-Section (2) of Section 23 ; or

(c) has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars of such income.

he or it, as the case may be, may direct that such person shall pay by way of penalty, in the case referred to in clause (a), in addition to the amount of the agricultural income-tax payable by him, a sum not exceeding that amount, and in the cases referred to in clauses (b) and (c), in addition to any agricultural income-tax payable by him, a sum not exceeding the amount of the agricultural income-tax which would have been avoided if the income as returned by such person had been accepted as the correct agricultural income :

Provided that where a person who has failed to comply with a notice under sub-section (2) of Section 22 or Section 41 proves that he has no income liable to agricultural income-tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees.

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

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

30. Where any agricultural income-tax or penalty or other sum is due in consequence of any order passed under or in pursuance of this Act, the 'Agricultural' Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable.

Notice of demand.

31. (1) Any assessee objecting to the amount of agricultural income assessed under Section 23 or Section 28 or the amount of agricultural income-tax determined under Section 23 or Section 28 or denying his liability to be assessed under this Act or objecting to a refusal to make a fresh assessment under Section 28, or objecting to any order under Section 27 or 29 or objecting to any order imposing any penalty under sub-section (1) of Section 50 or objecting to a refusal to allow a claim to a refund under Section 53 or 56 or the amount of the refund allowed under any of those Sections may appeal to the Assistant Commissioner against the assessment, or against such refusal or order :

Appeal against assessment under this Act.

Provided that no appeal shall lie against any order under sub-section (1) of section 50 unless the agricultural income-tax or such part thereof as the Assistant Commissioner decides has been paid.

(2) The appeal shall, subject to the provisions of Section 38, be presented within sixty days of receipt of the notice of demand relating to the assessment or penalty objected to or of the intimation of refusal to pass an order under sub-section (1) of Section 27 or of the date of the refusal to make a fresh assessment under Section 28 or of the intimation of an order under Section 53 or 56, as the case may be.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

32. (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing :

Hearing of appeal.

Provided that if the assessee or his agent is not present before the Assistant Commissioner when such day and place are fixed or such adjournment is made, the Assistant Commissioner shall inform the assessee or his agent by notice sent by post of the day and place fixed or of any date to which the hearing of such appeal is adjourned, as the case may be.

(2) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Agricultural Income-tax Officer.

(3) The Assistant Commissioner may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal if the Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(4) In disposing of an appeal, the Assistant Commissioner may—

(a) in the case of an order of assessment—

(i) confirm, reduce, enhance or annual the assessment ; or

(ii) set aside the assessment and direct the Agricultural Income-tax Officer to make a fresh assessment after making such further inquiry as the Agricultural Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Agricultural Income-tax Officer shall thereupon proceed to make such fresh assessment and determine where necessary the amount of agricultural income-tax payable on the basis of such fresh assessment ; or

(b) In the case of an order under Section 53, or Section 56 confirm, cancel or vary such order ; or

(c) in the case of an order under sub-section (1) of Section 27, confirm such order or cancel it and either direct the Agricultural Income-tax Officer to make further inquiry and pass a fresh order to make an assessment in the manner laid down in sub-section (2) of Section 27 ; or

(d) in the case of an order under Section 29 or sub-section (1) of Section 50 ; confirm or cancel such order or vary it so as either to enhance or reduce the penalty :

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty or reduce a refund unless the Appellant has had a reasonable opportunity of showing cause against such enhancement or such reduction.

(5) The Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.

Procedure of
appeal to the
Tribunal.

33. (1) Any assessee objecting to an order passed by an Assistant Commissioner under section 29 or section 32 may appeal to the Tribunal within sixty days of the date on which such order is communicated to him.

(2) The Commissioner may, if he objects to an order passed by an Assistant Commissioner under Section 32, direct the Agricultural Income-tax Officer to appeal to the Tribunal against such order ; and in such case the Agricultural Income-tax Officer shall, subject to the provisions of Section 38, make the appeal within sixty days from the date on which the order is communicated to the Commissioner by the Assistant Commissioner.

(3) An appeal to the Tribunal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders as it thinks fit, and shall communicate such orders to the assessee and to the Commissioner.

(5) Save as provided in Section 39, the orders passed by the Tribunal on appeal shall be final.

(6) Where an appeal is made to the Tribunal under this section, the costs shall be in the discretion of the said Tribunal.

34. (1) The Commissioner may of his own motion 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, may pass such order thereon, as he thinks fit; and if the order is prejudicial to the assessee, he shall, before passing any such order give the assessee an opportunity of being heard :

Power of
revision by
Commissioner.

Provided that the Commissioner shall not revise any order under this sub-section if—

- (a) where an appeal against the order lies to the Assistant Commissioner or to the Tribunal, the time within which such appeal may be made has not expired; or
- (b) the order is pending on an appeal before the Assistant Commissioner or has been made the subject of an appeal to the Tribunal; or
- (c) the order has been made more than two years previously.

(2) The Commissioner may, on application ¹ * * for revision of an order under this Act passed by any authority subordinate to the Commissioner, made ² [by any person affected by such order] (subject to the provisions of Section 38) within one year from the date of the order, call for the record of the proceeding in which such order was passed, and on receipt of the record may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may pass such order thereon, as he thinks fit; and if the order is ³ [prejudicial to any person affected by the order], he shall, before passing any such order ⁴ [give such person] an opportunity of being heard :

Provided that the Commissioner shall not revise any order under this sub-section if—

- (a) where an appeal against the order lies to the Assistant Commissioner or to the Tribunal but has not been made, or the time within which such appeal may be made has not expired; or
- (b) where an appeal against the order has been made to the Assistant Commissioner, the appeal is pending before the Assistant Commissioner; or
- (c) the order has been made the subject of an appeal to the Tribunal;

35. No appeal and no application for revision shall lie against.—

Non-appealable
orders.

(1) a notice issued under this Act calling upon an assessee for assessment or asking an assessee to show cause as to why he should not be prosecuted for an offence under this Act, or

(2) an order pertaining to the seizure or retention of account books, registers and other documents; or

(3) an order sanctioning a prosecution under this Act.

36. Notwithstanding anything contained in the Bombay Court-fees Act, 1959 (an appeal preferred under Section 31 or Section 33 and an application for revision a made under section 34 shall bear a court-fee stamp of such value ⁵ [not exceeding one hundred rupees] as may be prescribed.

Court-fee on
appeal and
application
for revision.

1 The words "by an assessee" were deleted by Mah. 21 of 1964, s. 4 (a).

2 These words were inserted *ibid.*, s. 4 (b).

3 These words were substituted for the words "prejudicial to the assessee". *ibid.*, s. 4 (c).

4 These words were substituted for the words "give the assessee". *ibid.*, s. 4 (d).

5 These words were inserted *ibid.*, s. 5.

Application of Sections 4 and 12 of Limitation Act IX of 1908.

37. In computing the period laid down under Sections 31, 33, 34 and 39 the provisions of Sections 4 and 12 of the Indian Limitation Act, 1908 shall, so far as may be, apply. IX of 1908

Extension of period of limitation in certain cases.

38. An appellate authority may admit any appeal under Section 31 or 33 and the Commissioner may admit an application under Section 34 after the period of limitation laid down in the said sections, if the Appellant or the applicant, satisfies the appellate authority or the Commissioner, as the case may be, that he had sufficient cause for not preferring the appeal or making the application, within such period.

Statement of case by Tribunal to High Court.

39. (1) Within sixty days of the date upon which he is served with a notice of an order under sub-section (4) of Section 33, the assessee or the Commissioner may, by application in the prescribed form (accompanied when the application is made by the assessee, by a fee of fifty rupees), require the Tribunal to refer to the High Court any question of law arising out of such order and the tribunal shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court :

Provided that, if in the exercise of its powers under sub-section (1), the Tribunal refuses to state a case which it has been required by the assessee to state the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application, and if he does so, the fee paid shall be refunded.

(2) If, on any application being made under sub-section (1), the Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within ninety days from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied of the correctness of the decision of the Tribunal, require the Tribunal to state the case and to refer it and on receipt of any such requisition, the Tribunal shall state the case and refer it accordingly.

(3) If, on any application being made under sub-section (1), the Tribunal rejects it on the ground that it is time-barred, the assessee or the Commissioner, as the case may be, may, within sixty days from the date on which he is served with notice of the rejection, apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Tribunal's decision, may require the Tribunal to treat the application as made within the time allowed under sub-section (1).

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court, upon the hearing of any such case, shall decide the questions of law raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded, and shall send a copy of such judgement under the seal of the Court and the signature of the Registrar to the Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(6) Where a reference is made to the High Court, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case :

Provided that if the amount of assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow unless the High Court on intimation given by the Commissioner within thirty days of the receipt of the result of such reference that the Commissioner intends to ask for leave to appeal to the Supreme Court makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal to the Supreme Court.

(8) Section 5 of the Indian Limitation Act, 1908, shall apply to an application of the Tribunal under sub-section (1) or to the High Court under sub-section (2) or sub-section (3).

40. (1) When any case has been referred to the High Court under Section 39, it shall be heard by a Bench of not less than two judges of the High Court, and in respect of such case the provisions of Section 98 of the Code of Civil Procedure, 1908, shall, so far as may be, apply, notwithstanding anything contained in the Letters Patent of the High Court or in any other law for the time being in force,

(2) An appeal shall lie to the Supreme Court from any judgement of the High Court delivered on a reference made under Section 39 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

(3) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (5) or sub-section (7) of Section 39 :

Provided further that the High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby transmit the order for execution to any Court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-sections (5) and (7) of Section 39 in the case of a judgement of the High Court.

41. (1) If the Agricultural Income-tax Officer discovers that agricultural income chargeable to agricultural income-tax has escaped assessment in any year, or has been under assessed, or has been the subject of excessive relief under this Act, the Agricultural Income-tax Officer may, in any case in which the income is partially agricultural income assessable under this Act and partially income chargeable under the Income-tax Act, under the head "Profits and gains of business or profession" or in which he has reason to believe that the assessee has concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars thereof, at any time within eight years, and in any other case at any time within five years of the end of that year, serve on the person liable to pay agricultural income-tax on such agricultural income, or in the case of a company on the principal officer of such company, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of Section 22 and may proceed to assess or re-assess such agricultural income and the provisions of this Act, shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Reference to be made by a Bench of the High Court and appeal to lie in certain cases to the Supreme Court.

Income escaping assessment.

Provided that the agricultural income-tax shall be charged at the rate at which it would have been charged had the agricultural income not escaped assessment or full assessment, as the case may be.

(2) No order of assessment under Section 23 or of assessment or re-assessment under sub-section (1) shall be made after the expiry, in any case in which Section 9 or clause (c) of sub-section (1) of Section 29 applies, of eight years and, in other case, of five years from the end of the year in which the agricultural income was first assessable :

Provided that nothing contained in this sub-section shall apply to a re-assessment made in pursuance of an order made under Section 32, section 33, Section 39 or section 40.

42. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, a fraction of a *naya paisa*, shall be ignored.

Provision for rounding off.

43. The Agricultural Income-tax Officer, the Assistant Commissioner and the Tribunal shall, for the purposes of this Chapter, and the Commissioner shall, for the purposes of Section 34, have the same power as are vested in a Court under the Code of Civil Procedure, 1908. when trying a suit in respect of the following matters, namely :—

Power to take evidence on oath, etc.

V of 1908.

- (a) enforcing the attendance of any person and examining him on oath or affirmation ;
- (b) compelling the production of documents ; and
- (c) issuing commissions for the examination of witnesses ;

and any proceeding before an Agricultural Income-tax Officer, Assistant Commissioner or the Tribunal under this Chapter or before the Commissioner under Section 34, shall be deemed to be a "Judicial proceeding" within the meaning of Sections 193 and 228, and for the purposes of Section 196, of the Indian Penal Code.

XLV of 1860.

44. The Agricultural Income-tax Officer or Assistant Commissioner may, for purposes of this Act,

Power to call for information.

(1) require any firm or Hindu undivided family to furnish him with a return of the members of the firm or of the manager or adult male members of the family, as the case may be, and of their addresses ;

(2) require any person whom he has reason to believe to be a trustee, guardian, common manager or agent to furnish him with a return of the name of the persons for or of whom he is trustee, guardian, common manager, or agent, and of their addresses.

45. The Agricultural Income-tax Officer or any person authorised by him in writing in this behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture-holders or mortgages of any company or of any entry in such register.

Power to inspect the register of members of any company.

46. (1) Every assessee and every other person (being a person who receives agricultural income from land) who is required so to do by an Agricultural Income-tax Officer by notice served on him in the prescribed manner, shall keep a true-account of all agricultural income received by him.

Accounts

(2) If the Agricultural Income-tax Officer considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a person is liable to agricultural income tax during any year or are so kept as not to enable a proper scrutiny of the returns mentioned in Section 22 or any statement in verification mentioned in Section 22, the Agricultural Income-tax Officer may require such person by notice in writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment and as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(3) The Commissioner may, subject to such conditions, or restrictions as may be prescribed in this behalf, by notice in writing direct any assessee or by notification in the *Official Gazette* direct any class of assessee to maintain accounts and records showing such particulars regarding their agricultural income (including all matters incidental thereto) in such form, and in such manner, as may be specified by him.

47. (1) The Commissioner may, subject to such conditions as may be prescribed require any assessee to produce before him any accounts or documents or to furnish any information, relating to stocks of any agricultural produce raised or received by him or relating to sales or deliveries of such produce or any other information relating to his business from which any agricultural income is received by him, as may be necessary for the purposes of this Act.

Production and inspection of accounts and documents and search of premises.

(2) All accounts, registers and documents relating to stocks of any agricultural produce raised or received by him or relating to sales or deliveries of such produce or to the business aforesaid shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of this Act.

(3) If the Commissioner has reason to believe that any assessee has evaded or is attempting to evade the payment of any agricultural income-tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the assessee as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purposes of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any assessee, or any other place where the Commissioner has reason to believe that the assessee keeps or is for the time being keeping any accounts, registers or documents referred to in sub-section (2).

48. (1) If the State Government considers that for the purposes of the better administration of this Act, it is necessary so to do, it may, by notification in the *Official Gazette*, direct that statistics be collected relating to any matter dealt with by or under this Act.

Power to collect statistic.

(2) Upon such direction being made, the State Government or any person or persons authorised by it in this behalf may, by notification in the *Official Gazette*, and by notice in any newspapers or in such other manner as in its or his opinion is best calculated to bring the notice to the attention of the assessee, call upon all assessee or any class of assessee to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which such information or returns should be furnished, the particulars which they should contain and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

CHAPTER VII

RECOVERY OF TAX AND PENALTIES

49. (1) Any amount specified as payable in a notice of demand under section 30 or in an order under section 32, 33 or 34 shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default:

Provided that, where an assessee has presented an appeal under section 31 if such assessee makes an application to the Agricultural Income-tax Officer supported by a certified copy of an order by the Assistant Commissioner or a certified copy of any entry in any register maintained by the Assistant Commissioner showing that such appeal has been presented for an extension of the period allowed for payment of the said tax until the appeal is disposed of, the Agricultural Income-tax Officer may, with the previous permission in writing of the Commissioner extend such period until the disposal of the appeal.

(2) If any assessee makes an application within the time mentioned in the notice of demand under Section 30 for being allowed to pay the tax due by instalments, the Agricultural Income-tax Officer may, by order in writing, allow the assessee to pay the tax due in instalments not exceeding four in number, at such intervals as the said officer may fix :

Provided that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of the tax due.

50. (1) When an assessee does not pay the whole or extra amount of the tax due according to the return or revised return under Sub-section (4) of section 22, or is in default or is deemed to be in default in making the payment of agricultural income-tax, the Agricultural Income-tax Officer may direct that, in addition to the amount of the arrears, a sum not exceeding half that amount shall be recovered from the assessee by way of penalty :

Provided that, before levying any such penalty the assessee shall be given a reasonable opportunity of being heard.

(2) For the purposes of sub-section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less than half the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed half the amount of the arrears payable.

(3) The Agricultural Income-Tax Officer aforesaid may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee who is in default or is deemed to be in default ; and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land revenue.

(4) No proceedings for the recovery of any tax payable under this Act shall be commenced after the expiration of three years after,—

(a) the last date on which the tax is payable without the assessee being deemed to be in default, or

(b) the date on which the last instalment fixed under sub-section (2) of section 49 falls due, or

(c) the date on which any appeal relating to the payment of the tax has been disposed of,

whichever is the later.

51. Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the assessee, require— Special mode of recovery.

(a) any person from whom any amount of money is due, or may become due, to an assessee on whom a notice of demand has been served under Section 30, or

(b) any person who holds or may subsequently hold money for or on account of such assessee,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the assessee in respect of which a notice of demand has been so issued or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purpose of this section, the amount of money due to an assessee from, or money held for or on account of an assessee by, any person, shall be calculated after deducting therefrom such claim (if any) lawfully subsisting, as may have fallen due for payment by such assessee to such person.

The Commissioner may at any time, or from time to time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of such assessee and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

Any person discharging any liability to such assessee after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged, or to the extent of the liability of the assessee for tax and penalty, whichever is less.

Where a person to whom a notice under this section is sent proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the assessee, or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

Any amount of money which a person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue. Recovery of penalties.

52. Any sum imposed by way of penalty or awarded by way of costs under this Act shall be recoverable in the manner provided in this Chapter for the recovery of arrears of agricultural income-tax.

CHAPTER VIII

REFUNDS Refunds.

53. (1) If any person satisfies the Agricultural Income-Tax Officer that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of any such excess.

(2) The Assistant Commissioner in the exercise of this appellate powers or the Commissioner in the exercise of his powers of revision if satisfied to the like effect shall cause a refund to be made by Agricultural Income-tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this section in respect of such agricultural income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid, or to authorise the revision of any assessment or other matter which has become final and conclusive, or the review by any officer of a decision of his own which is subject to appeal or revision or where any relief is specially provided elsewhere in this Act, to entitle any person to any relief other or greater than that relief.

Reciprocal relief in respect of double taxation with other Government.

54. (1) The State Government may, by notification in the *Official Gazette*, make provision for the granting of relief in respect of agricultural income on which both agricultural income-tax under this Act and other income-tax have been paid.

(2) For the purposes of this section "other income-tax" means any income-tax, super-tax or sur-tax charged under any law in force in any State other than the State of Maharashtra where the laws of such State provide for relief in respect of tax charged on income both in such State and in this State which appears to the State Government to correspond to the relief which may be granted under this section.

Power to set off amount of refunds against tax remaining payable.

55. Whereunder any of the provisions of this Act, a refund is found to be due to any person, the Agricultural Income-tax Officer, the Assistant Commissioner or the 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 agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

Power of representative of deceased person or persons disabled to make claim on his behalf.

56. Where through death, incapacity, bankruptcy, liquidation or other cause a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under Section 53 is unable to receive such refund or to make such claim, his executor, administrator or other legal representative, or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

Limitation of claims for refunds.

57. No claim to any refund of agricultural income-tax under this Chapter shall be allowed unless it is made within two years from the date of the final order of assessment.

CHAPTER IX

OFFENCES AND PENALTIES

58. (1) (i) If a person fails without reasonable cause or excuse—

Failure to make payments or deliver returns or statements or allow inspections.

(a) to furnish in due time any of the returns mentioned in Section 22 or Section 44 ;

(b) to produce or cause to be produced, on or before the last date allowed by the Agricultural Income-tax Officer under sub-section (5) of Section 22 or the date mentioned in the notice under the said sub-section, whichever is the later, such accounts, or documents as are referred to in the notice ;

(c) to grant inspection to allow copies to be taken in accordance with the provisions of Section 45 ;

(d) to keep true account of the agricultural produce raised or received by him as required by Section 46, or when directed so to do under that section to keep any account or record in accordance with the direction ; or

(ii) if a person—

(a) fails to comply with any requirement made of him under Section 47,

(b) knowingly produces incorrect accounts, registers or documents or knowingly furnishes incorrect information,

(c) obstructs any officer making an inspection, search or seizure under Section 47; or

(iii) if a person aids or abets any other person in the commission of any act specified in any of the sub-clauses of clause (i) or of clause (ii),

he shall, on conviction, be punished with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both.

(2) If a person after having been convicted of any offence referred to in sub-section (1) continues to commit such offence, he shall be punished for each day after the first during which such offence continues with a daily fine not exceeding one hundred rupees.

59. If a person makes a statement in a verification mentioned in Section 22 or sub-section (3) of Section 31 or sub-section (3) of Section 33 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall, on conviction, be punished with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

False statement in declaration.

60. (1) A person shall not be proceeded against for an offence under Section 58 or Section 59 except at the instance of the Commissioner.

Prosecution to lie at the instance of Commissioner.

(2) The Commissioner may, subject to such conditions as may be prescribed, either before or after the institution of proceedings compound any such offence.

61. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given or affidavit or deposition made in the course of any proceedings under this Act (other than proceedings under this Chapter) or in any record of any assessment proceedings or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as provided in sub-section (3), be entitled to require any servant of the Government to produce before it any such statement, return, accounts, documents or record or any part thereof or to give evidence before it in respect thereof.

Disclosure of information by public servant.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction be punished with imprisonment which may extend to six months or with fine or, with both.

(3) Nothing contained in this Section shall apply to the disclosure—

(a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or the Defence of India Ordinance, 1962 or any rules or orders made thereunder or for carrying into effect the provisions of this Act ; or

(b) of any such particulars to the State Government or to any person acting in the execution of this Act for the purposes of carrying out the object of this Act ; or

(c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand ; or

(d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceedings under this Act ; or

(e) of any such particulars to any officer appointed to audit receipts or refunds of the agricultural income-tax imposed under this Act ; or

(f) of any such particulars where such particulars are relevant in any inquiry into the conduct of an official of the Agricultural Income-tax Department to any person or persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850, or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its function in relation to any matter arising out of such inquiry ; or

(g) of such facts to an officer of the Central Government or a State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(h) of any such particulars when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 or the Indian Stamp Act, 1899, to impound an insufficiently stamped document ; or

(i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with agricultural income-tax proceedings against a legal practitioner, agricultural income-tax practitioner or chartered accountant, to the authority empowered to take disciplinary action against members practising the profession of a legal practitioner, agricultural income-tax practitioner or chartered accountant, as the case may be.

Disclosure of information required under Section 48 and failure to furnish information or return under that section.

62. (1) No information of any individual return and no part of any individual return, with respect to any matter given for the purposes of Section 48 shall, without the previous consent in writing of the owner for the time being or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular assessee ; and no such information shall be used for the purpose or any proceedings under the provisions of this Act.

(2) Except for the purposes of prosecution under this Act, or under the Indian Penal Code or the Defence of India Ordinance, 1962 or any rules or orders made thereunder, no person who is not engaged in the collection of statistics under Section 48 or in the administration of this Act shall be permitted to see or have access to any information or any individual return referred to in that section.

(3) If any person required to furnish any information or return under Section 48—

(a) wilfully refuses or without lawful excuse, neglects to furnish such information or return as may by that section be required ; or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false ;

he shall, on conviction, be punished with fine which may extend to one hundred rupees and in case of a continuing offence to a further fine which may extend to ten rupees for each day after the first during which the offence continues.

XXX-VII of 1850.

Bom. LX of 1958. II of 1899.

XLV of 1860. Ord. IV of 1962.

XLV of
1860.
Ord. IV of
1962.

(4) If any person engaged in connection with the collection of statistics under Section 48 wilfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code or the Defence of India Ordinance, 1962 or any rules or orders made thereunder, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

[62-A. (1) Notwithstanding anything contained in Sections 61 and 62, if the State Government is of opinion that it is necessary or expedient in the public interest to publish or disclose the names of any assesseees or other persons and any other particulars relating to any proceedings under this Act in respect of such assesseees and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

Publication and disclosure of information respecting assesseees and other persons in public interest.

(2) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or any conviction for any offence connected with any proceedings under this Act, until the time for presenting an appeal to the appropriate appellate authority 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, the directors, managing agents, secretaries, treasurers or managers of the company, or the members of the association, as the case may be, may also be published or disclosed, if, in the opinion of the State Government, the circumstances of the case justify it].

63. (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 :

Off ences by companies.

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he 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 officers 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 purpose of this section—

(a) 'company' means a body corporate and includes a firm or any association of persons or body of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

64. No court shall take cognizance of any offence punishable under sub-section (2) of Section 61 or sub-section (4) of Section 62 except with the previous sanction of the State Government.

Cognizance of offences.

Section 62-A was inserted by Mah. 62 of 1975, s. 4.

CHAPTER X

MISCELLANEOUS

Appearance before
any authority in
proceedings.

65. (1) Any person, who is entitled or required to attend before any authority in connection with any proceeding under this Act, may attend—

(a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(b) by a legal practitioner or chartered accountant, who is not disqualified by or under sub-section (2) ; or

(c) by an agricultural income-tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, chartered accountant or agricultural income-tax practitioner—

(i) who has been removed or dismissed from Government service, or

(ii) who being a legal practitioner or chartered accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs, or

(iii) who being an agricultural income-tax practitioner is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section may within one month of the date of communication of such order, appeal to the Tribunal to have the order cancelled.

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may at any time *suo motu* or on an application made to him in this behalf, revoke any order made against any person under sub-section (2), and thereupon, such person shall cease to be disqualified.

Place of
assessment.

66. (1) Where an assessee is a company having a registered office in the State, it shall be assessed by the Agricultural Income-Tax Officer of the area in which such registered office is situated.

(2) Where an assessee is a company not having a registered office in the State or is a firm or other association of individuals or body of persons, it shall be assessed by the Agricultural Income-Tax Officer of the area where the principal accounts relating to its agricultural income are kept.

(3) In all other cases, the assessee shall be assessed by the Agricultural Income-Tax Officer of the area in which such assessee resides and where the assessee resides outside the State by the Agricultural Income-Tax Officer of the area in which the agent or the principal officer of such assessee resides :

Provided that, if the accounts relating to the agricultural income of an assessee are kept in any place in the State, such assessee shall have the option of being assessed by the Agricultural Income-Tax Officer of the area in which such place is situated.

Explanation.—In the case of a Hindu undivided family, an assessee shall for the purpose of this sub-section be deemed to reside where the manager of the family resides.

(4) Where an option is exercisable by an assessee under the proviso to sub-section (3) he shall exercise such option within thirty days of the publication of the notice under sub-section (7) of Section 22 or where a notice under sub-section (2) of that section is served, within thirty days from the service of such notice.

(5) Where an assessment has once been made under this Act by an Agricultural Income-Tax Officer, no objection relating to the place of assessment shall lie against such assessment.

(6) Subject to the provisions of this section, every Agricultural Income-Tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed.

67. The Commissioner may, after due notice to the parties, by order in writing transfer any proceedings or class of proceedings under any provision of this Act from himself to any other officer, and he may likewise transfer any such proceedings (including a proceeding already transferred under this section) from one such officer to another or to himself. Power to transfer proceedings.

68. Where, during the pendency of any proceeding under this Act, any assessee creates a charge on, or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his land from which agricultural income is received by him in favour of any other person with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any agricultural income-tax or any other sum payable by the assessee as a result of the completion of the said proceedings : Transfer to defraud revenue void.

Provided that, such charge or transfer shall not be void if made for valuable consideration and without notice of the pendency of proceeding under this Act.

69. (1) A notice or 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. Service of notices.

(2) Any such notice or requisition, may—

(a) in the case of a firm or a Hindu undivided family be addressed to any member of the firm or to the manager of the family ; and

(b) in the case of company or any other association of individuals or body of persons be addressed to the principal officer thereof.

70. Every person retaining or paying any tax in pursuance of this Act in respect of agricultural income belonging to another person is hereby indemnified for the retention or payment thereof. Indemnity.

71. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act. Bar of suits in Civil Courts.

72. (1) The State Government may, subject to the condition of previous publication, make Rules consistent with the provisions of this Act for carrying out the purposes of this Act. Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe in accordance with the provisions of this Act the manner of ascertainment and determination of agricultural income;

(b) prescribe the procedure to be followed on application for refunds allowable under this Act;

¹ [(ba) provide for fees not exceeding fifty *naye paise* payable (in Court-fee stamps) in respect of an application for a certified copy of any order passed or any document produced or filed in any proceedings, under this Act;]

(c) provide for any matter which by this Act is to be prescribed.

(3) Every Rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the Rule or both Houses agree that, the Rule should not be made, the Rule shall from the date of publication of a notification in the *Official Gazette* of the such decision, 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 or omitted to be done under that Rule.

¹ Clause (ba) was inserted by Mah. 21 of 1964, s. 5.