



PREFACE

The enactment of the provisions of search and seizure in our country under the income-tax law dates back to the year 1956. This is an extreme action undertaken by the Income-tax Department to investigate a person regarding the undisclosed income and wealth. With the gradual deterioration in the value system in the society, there is increased tendency to resort to illegal, unethical and corrupt practices for maximization of wealth. This results into the generation and accumulation of unaccounted income and wealth. Needless to say, Income-tax Department is becoming more and more vigilant on this issue and the actions of search and seizure are being undertaken frequently. Further, with the introduction of technology in the working of the Income-tax Department, better qualitative information are available which, in turn, lead the tax department to undertake investigation by resorting to income-tax search and seizure actions.

The law relating to income-tax search and seizure is cumbersome and at the same time, the process of search and seizure is painful from the point of view of the taxpayers. The law relating to income-tax search and seizure and particularly assessment procedure with respect to taxpayer who is searched, has undergone several changes in the past. Apart from the legal issues, there are practical complications which are faced by the searched persons. There are several practical aspects which keep on haunting a person regarding handling of income-tax search and seizure. An attempt has been made in this book to comprehend and address various practical aspects relating to search and seizure, apart from discussing and analyzing various complicated and controversial legal issues.

Over a period of time, several landmark judgments have been delivered by Supreme Court, different High Courts and benches of Tribunal. Significant judgments delivered in this regard have been discussed and analyzed at appropriate places. With respect to new assessment

procedure in search cases applicable w.e.f. 1st June, 2003, as given under sections 153A to 153D, the law is in the process of being evolved, developed, interpreted and explained by Supreme Court and various High Courts. These provisions have been discussed in this book, keeping in view the various issues which may be analyzed and interpreted by the courts in future.

There are certain issues with respect to which there are divergent views prevailing in the professional circles as well as expressed by different courts while delivering various judgments. An attempt has been made in this book to give both the views so as to bring on surface the different dimensions of the controversy and wherever deemed appropriate, own opinion has been expressed by us also.

Further, on various controversial issues, an attempt has been made to give a balanced view from the point of view of taxpayers as well as department. However, the possibility of having a slight tilt in favour of the taxpayers cannot be ruled out for the reason that the authors do have the background of being practicing tax consultants in their professional careers and have throughout represented the cases of the taxpayers at various levels right from Assessing Officer till Supreme Court.

Income-tax Act, 1961 is in the process of being replaced by new Direct Tax Code very shortly. There was a dilemma as to whether a comprehensive commentary on income-tax search and seizure provisions should be published at this juncture. In the mean time, Direct Taxes Code Bill, 2010 has been placed before Parliament and it was observed that conceptually the provisions relating to search and seizure contained in the Bill are on the same lines of the Income-tax Act, 1961 with certain minor amendments. Therefore it was thought appropriate to release the present book which, in our humble opinion, would remain relevant and useful under the existing Act as well as after the enactment of new Code.

In the beginning of the book, few chapters have been devoted to discuss Frequently Asked Questions (FAQs), gist of significant landmark judgments of various courts and checklists to be practiced by the assessee while handling income-tax search and seizure action. Such material may be quite handy and may provide readily available solution to certain practical issues. For detailed analysis and discussion, one may refer to appropriate section in the book.

Development of law is a continuous process and in practice also, it has been observed that new kind of issues and situations keep on emerging.

We welcome and invite suggestions and request that any new issue(s) coming to the knowledge of the esteemed readers may be referred to us for discussion and incorporation in future edition of the book. We would further invite feedback with respect to any discrepancy in the book which may be noticed by the esteemed readers despite our sincere efforts to avoid any mistake or error.

The issues have been discussed and analyzed in this book keeping in view the need of different sections of the society. This book may be useful to the practicing tax consultants, taxpayers being individuals or Corporates, senior executives working with the corporate world, academicians and students and at the same time to the tax administrators as well.

SECOND EDITION

It was maiden attempt writing book on the subject 'Income Tax Search and Seizure' incorporating our practical experience of professional practice. The first edition of the book was published in June 2011 and we are extremely happy and satisfied that the book has been well received and appreciated in the professional as well as Departmental circle. Direct Taxes Code Bill, 2010 presented in Parliament could not be enacted so far and therefore the provisions introduced in the bill amending certain provisions relating to search and seizure could not be effected. The Finance Act, 2012 has thoroughly amended penalty provision relating to search with certain other minor amendments relating to provisions of sections 153A and 153C of the Income-tax Act, 1961. It is a matter of extreme pleasure and satisfaction to bring out second edition of the book analyzing the amendments introduced by Finance Act, 2012 and further discussing the judgments delivered by different courts during last one year on different aspects relating to provisions of search and seizure.

THIRD EDITION

It is a matter of extreme pleasure and satisfaction that the second edition of the book received overwhelming response from the readers. It has encouraged us to bring the third edition incorporating changes made by the Finance Act, 2013 and latest judicial decisions rendered by different courts and we hope that it will receive the same response.

We once again request our esteemed readers to keep on sending their valuable suggestions so as to make the book more useful for all of us.

FOURTH EDITION

It is a matter of extreme pleasure and satisfaction that the third edition of the book received overwhelming response from the readers. It has

encouraged us to bring the fourth edition incorporating changes made by the Finance (No. 2) Act, 2014. We hope that it will receive the same response.

We once again request our esteemed readers to keep on sending their valuable suggestions so as to make the book more useful for all of us.

FIFTH EDITION

We are pleased to bring fifth edition of the book incorporating amendments made by Finance Act, 2015 & Finance Act, 2016 and judicial decisions rendered by the courts during last two years. Chapter on Direct Tax Code has been dropped from the book as it is now clear from the government that new Direct Tax Code shall not be introduced. Certain significant amendments proposed in the Direct Tax Code earlier have already been incorporated in the Income Tax Act. We would welcome to your valuable suggestions and feedback on various aspects of the book.

SIXTH EDITION

We are pleased to bring sixth edition of the book incorporating amendments made by Finance Act, 2017 and judicial pronouncements rendered by different courts during the calendar year. The Taxation Laws (Second Amendment) Act, 2016 has amended the penalty provisions relating to search and has amended section 115BBE alongwith introduction of new penalty provision under section 271AAC which have been analysed and discussed in detail in this edition. A new chapter on Income Declaration Scheme, 2016 and The Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 alongwith the critical analysis of the schemes has also been incorporated in this edition.

We once again request our esteemed readers to keep on sending their valuable suggestions so as to make the book more useful for all of us.

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