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For Departmental use only

Survey Manual 2007

DIRECTORATE OF INCOME-TAX

(Public Relations, Printing, Publications and Official Language)

INCOME-TAX DEPARTMENT

NEW DELHI-110001

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FOREWORD

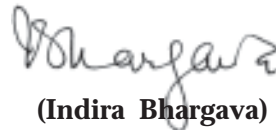
Surveys u/s 133A of the Income-tax Act, 1961 have come to play an increasingly important role amongst the various instruments at hand with the Income Tax Department in curbing the tendency to evade tax and generation of black money, and in identifying new assesseees. While there has been a shift towards non-intrusive methods of investigation, the instrument of survey, along with search operations, have acted as effective deterrent to tax evasion and contributed to the resource mobilization efforts of the Government.

In the above scenario, it had become imperative to re-write and update the Survey Manual of 1990, both to incorporate the changes in legislation and procedures that have taken place in the last 17 years, as also to address issues relating to modern technology and bringing in greater transparency in the Department's day-to-day functioning. Looking into these aspects, I had, in October 2006, constituted a Committee of senior officers of the Department, headed by Smt. Sunita Kaila, the then DGIT(Inv.), Bangalore, for preparing a new Survey Manual.

This Survey Manual is a result of the painstaking work of the Committee. The Manual is both comprehensive and contemporaneous and would serve as an important guide on the subject, especially for the young officers of the Department who are executing the survey operations and the post-survey assessment work.

I sincerely hope that the Manual would be put to effective use by the Department and prove to be an important guide in enhancing the quality of survey operations and the resource mobilization efforts of the Government.

I would like to place on record my sincere appreciation to Smt. Sunita Kaila, Director General of Income Tax (Vigilance), Shri JR Sharma, Director of Income Tax (Inv.), Hyderabad, Shri Abhay Kumar, Director of Income Tax (Inv.), Bangalore, Shri Ajit Korde, Addl. Director of Income Tax (Inv.), Bangalore, Shri Sandeep Raj, Dy. Director of Income Tax, DTRTI, Kolkata and Shri A Chowdhary, Asst. Commissioner of Income Tax, Kolkata for their valuable contribution in bringing out the new Survey Manual.



(Indira Bhargava)

Chairman,

Central Board of Direct Taxes

New Delhi

Dated : 30th May, 2007

PREFACE

Survey is an important tool for collection of information by the Income Tax Department. For effective implementation of the legal provisions of Survey, Board has issued instructions and guidelines from time to time. The Survey Manual-2007 is an effort for compiling all the instructions and guidelines issued till date and analyzing those under different chapters.

While the Department selects a very few returns for scrutiny, large number of returns are accepted summarily without calling for any other information. As a tool for collection of information survey serves an important purpose. While exercising the powers under survey the officers of the Department should take due care so that the operation is successful in achieving its objective. The Manual analyses some of the important points to be followed during the course of survey. Although it is not exhaustive, it is indicative of important provisions of law and procedures.

I congratulate Smt. Sunita Kaila, DGIT (Vigilance), New Delhi and the members of the Committee for rewriting the Survey Manual, incorporating various changes in law and procedure and also technological changes. I am sure this Manual will be useful for the officers in the field.

With increased dependence on voluntary compliance, Survey remains an effective tool in the hands of the taxman. However, he is certainly not permitted by law to proclaim, "I am the monarch of all I survey".



(Prasanna K. Misra)
Member (Investigation)
Central Board of Direct Taxes

New Delhi
May 30, 2007

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CHAPTER - I

INTRODUCTION

Survey operations constitute an extremely important tool for gathering information relating to financial transactions and about various persons, which are subsequently utilized in the assessment and other proceedings under the Income-tax Act, 1961. Surveys also enable the department to check the veracity of the statements filed by such persons before the income tax authorities. Information collected through surveys may also lead to identification of new assesses and stopfilers. Survey also helps in detecting tax evasion, failure to deduct tax at source by persons responsible for doing so, failure to pay to the Government the tax deducted at source by deductors and failure to furnish returns and statements by persons who are statutorily obliged to do so.

Need for survey in tax administration

2. The Income tax Department is entrusted with the responsibility of fair and effective administration of the Income tax Act, 1961 and other direct taxes enactments. The provisions of the Act empowers the Assessing Officer to scrutinize the returns and the statements filed in order to determine the income and to collect tax. Powers have also been conferred on the Assessing Officer to deal with assesses who fail to comply with the statutory requirements or who evade payment of tax. Thus, examination of books of accounts and verification of the facts presented by the assessee are the primary jobs of the Assessing Officer. In this context, the power of survey serves the following two important purposes:

- i) Department's determination to reach out and obtain information about the assessee and his income-earning activities; and
- ii) Meaningful selection of cases for scrutiny by collecting information about various trades and trade practices.

Categories of Surveys

3. Surveys under the Income tax Act are carried out under section 133A of the Act. The income tax authorities are authorised to visit places of business to make such enquiries as may be required. These surveys are "on the spot" enquiries to find out the actual state of affairs at the places where business or profession is carried out. Surveys are also carried out for the specific purpose of making enquiries about ostentatious expenditure on occasions such as marriages, festivals, etc. Thus, surveys can broadly be categorized as:

- Survey u/s.133A(1) - Specific Survey
- Survey u/s.133A(5) - Survey for checking ostentatious expenditure.

Survey u/s.133A(1) - specific survey

4. Survey u/s.133A(1) is carried out in respect of business premises or premises from which profession is carried out. This section empowers the Income Tax Authorities to inspect books of accounts and other documents, verify cash and stock, impound books of accounts and other documents, under certain conditions, and collect such information as may be required for any proceedings under the Income tax Act.

Survey u/s.133(A)(5) - for checking ostentatious expenditure

5. Section 133A(5) empowers the Department to collect information regarding the nature and scale of expenditure incurred by a person in connection with functions, ceremonies and events like marriages, birthdays, anniversaries, etc.

CHAPTER - II

LEGISLATIVE HISTORY

The power to enter a business/professional premises of an assessee was not vested in the income-tax authorities under the Indian Income-tax Act, 1922. Similarly, in the Income-tax Act, 1961, no such power was authorised till 1964. It was only by the Finance Act, 1964 that section 133A was inserted, with effect from 1st April, 1964, giving power to the Income-tax Officer or Inspector authorised by him to enter any place within his territorial jurisdiction or any place occupied by a person assessed by the Income-tax officer at which business or profession was carried on.

2. Section 133A originally inserted with effect from 1.4.1964 was as under :-

133A Power of Survey

(1) Notwithstanding anything contained in any other provision of this Act, an Income-tax Officer or any Inspector of income-tax authorised by him in this behalf may enter -

(a) any place within the limits of the area assigned to him, or

(b) any place occupied by any person in respect of whom the Income-tax officer exercises jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and on the inspection of such accounts or documents he may, if he so deems necessary, place marks of identification thereon or cause to be made extracts therefrom :

PROVIDED that the Income-tax Officer or such inspector of Income-tax may enter any place referred to in this section only during such hours as the place is open for the conduct of the business or profession :

PROVIDED FURTHER that while acting under this section the Income-tax Officer or Inspector of Income-tax shall not remove or cause to be removed from the place which he has entered any books of account or other documents.

(2) If a person who under sub-section (1) is required to afford facility to the Income-tax Officer or the Inspector of income-tax to inspect books of account or other documents either refuses or evades to do so, the Income-tax Officer shall have all the powers under sub-sections (1) and (2) of section 131 for enforcing compliance of the requirement made.

3. The scope and effect of the new section has been explained in Board's Circular No.20 dated 7th July, 1964 which reads as under :

“93. Power of survey - Insertion of new section 133A :

A new section 133A has been inserted with effect from 1st April, 1964, by section 31 of the Finance Act, 1964, conferring powers on an Income-tax Officer (or any Income-tax Inspector authorised by him in this behalf) to enter (a) any place within his territorial jurisdiction, where a business or profession is carried on, or (b) any place within his territorial jurisdiction, where a business or profession is carried on, for the purpose of inspecting any books of account or other documents which may be available at such a place, and placing marks of identification thereon or taking extracts from such books and documents. Such place can be entered into by the Income-tax Officer or the authorised Inspector of income-tax, even if it is not the principal place of the business or profession concerned. Entry in such premises is allowed, under this provision, only during the working hours of the business or profession. Further, the removal of any books of account or documents from the place by the Income-tax Officer or the authorised Inspector is expressly barred under this section. The section casts an obligation on any proprietor, employee or other person who may be attending to or helping in carrying on the business or profession to afford the Income-tax Officer or the authorised Inspector of income-tax, necessary facilities for inspecting the books of account or documents which may be available at the place and may be required by the Income-tax Officer or the Inspector. If such person refuses to afford facilities to the Income-tax Officer or the authorised Inspector for inspecting the books of account or documents or evades to do so, the Income-tax Officer {not the Inspector} is empowered to enforce compliance by taking recourse to powers under sub-sections (1) and (2) of section 131 {viz., powers as are vested in a civil court under the Code of Civil Procedure, 1908 for discovery and inspection, compelling the production of books of account and other documents, enforcing the attendance of any person, issuing commissions; and powers of levying a fine upto Rs.500 on a person intentionally omitting to attend or to produce books of account and documents as required in summons issued to him for the purpose}.” [See Appendix for Code of civil Procedure, 1908].

4. The Board explained the limitations on the powers of survey as under -

(a) entry can be only to or in a place of business or profession, which may be a branch;

(b) entry can be only during working hours of the business or profession;

(c) removal of any books of account or documents from the place is expressly barred by the section.

5. The Board further explained that the proprietor, employee or other person who may be attending to or helping in carrying on of business or profession was required to afford the Income-tax Officer or the Inspector necessary facilities for inspecting the books of accounts and other documents which may be available at the place. In case of non-compliance, the Income-tax Officer (not the Inspector) could invoke his powers under section 131(1) or 131(2) requiring such person to attend his office with the books or documents as found at the premises and also to levy a fine in cases of non-compliance.

6. Later, the Board issued Circular No.7-D(LX III-7 of 1967) dated 3.5.1967 which reads as under –

“The place which an Income-tax Officer or an Inspector, authorised by him, in this behalf may enter under the provisions of section 133A, must be either a place within the limits of the area under the jurisdiction of the Income-tax Officer or any place occupied by any person in respect of whom the Income-tax Officer exercises jurisdiction, at which a business or profession is carried on. The provisions of section 133A make it clear that, in either case, the place must be one where business or profession of an assessee is carried on, although it is not necessary that it should be the principal place of business or profession. The place where entry can be made under this section, must not be a place where the assessee does not carry on business. Business or residential premises of third parties, including a chartered accountant, a pleader or income-tax practitioner of whom the assessee may be a client, are not places which could be entered into for the purpose of section 133A. It would be improper for an Income-tax Officer or an Inspector authorised by him in this behalf, to enter the office of a chartered accountant for the purpose of inspecting the books of his client. It is also necessary that the place entered should be the business premises and not residential premises of the assessee and the entry should be during business or office hours.

It may however be noted that the above restrictions do not apply to cases of search and seizure specifically authorised under section 132 by the Commissioner of income-tax or Director of Inspection, which will be governed by the provisions of that section.”

7. By this circular, very clear directions were given by the Board to the effect that –

- i) the power of entry was confined only to the business or professional premises of the assessee;
- ii) the Income-tax Officer or Inspector was not entitled to enter the residential premises of any person;
- iii) in no case it included the power to enter the premises of the pleader or chartered accountant of the assessee. This would be so even if the books of account of the assessee were said to be lying in these premises; and
- iv) entry to the business or professional premises could be done only during business or office hours.

8. The above section was substituted by a newly inserted section by the Taxation Laws (Amendment) Act, 1975 with effect from 1-10-1975. The new section enlarged the powers under section 133A and the scope of the amendment has been explained in Board's circular No.179, dated 30th September, 1975 [1976] 102 ITR St. 14] as under :

“ 14. Power of Survey

The amending Act has substituted a new section for the existing section 133A of the Income-tax Act with a view to enlarging the scope and powers of survey available to the income-tax authorities. The main changes made in this behalf are as follows :

(i) At present, the powers of survey are vested in Income-tax Officers or Inspectors of income-tax authorized by them in this behalf. These powers will now be available to Inspecting Assistant Commissioners and Assistant Directors of Inspection as well.

(ii) Under the existing law, the power of the income-tax authorities is limited to the inspection of the books of account and other documents available at the place of business or profession of the assessee, placing marks of identification thereon and taking extracts therefrom. Under the amendment, the Inspecting Assistant Commissioner, the Assistant Director of Inspection and the Income-tax Officer will have the further power to check or verify the cash, stocks or other valuables found in the premises where the business or profession is carried on and also to require the proprietor, employee, etc., to furnish information which may be useful for or relevant to any proceeding under the Income-tax Act.

(iii) At present, the income-tax authorities have the power to enter only

a place where business is carried on. Such entry can be made during the hours at which such place is open for the conduct of business or profession. Under the amendment, the income-tax authorities will also have the power to enter any other place in which the person carrying on business or profession states that any of his books of account or other documents or any part of his cash or stocks or other valuable articles or things relating to his business or profession are kept. The entry to such other place will, however, be made only after sunrise and before sunset.

(iv) The Inspecting Assistant Commissioner, the Assistant Director of Inspection and the Income-tax Officer will now have the power to make an inventory of any cash, stocks or other valuable articles or things checked or verified by them and also to record the statement of any person which may be useful for or relevant to any proceeding under the Income-tax Act.

(v) The income-tax authorities will also have the power to collect information and record statements of persons concerned at any time after any function, ceremony or event even before the stage of assessment proceedings for the following year for which the information may be relevant, if they are of the opinion, that having regard to the nature, scale or extent of the expenditure incurred, it is necessary to do so. The object of this provision is to help collecting evidence about ostentatious expenditure immediately after the event to be used at the time of assessment.

It may be noted that while the Inspecting Assistant Commissioner, the Assistant Director of Inspection and the Income-tax Officer will have all the powers under the new provision, the Inspector of Income-tax has not been vested with the new powers referred to in items of (ii) and (iv) of the preceding paragraph. Further, the Inspector of Income-tax can exercise the powers of survey vested in him only if he is authorised by the Income-tax Officer to do so."

9. Amendments made by the Direct Tax Laws (Amendment) Act, 1987 with effect from 01.04.1988 and 01.04.1989 have been explained in para 9.12 of Board's Circular No.551 dated 23-01-1990 {(1990)} 183 ITR {St} 9) as under :

"Amendment of the provisions relating to power of survey (Section 133 A):

Under the old provisions of clause (a) of the Explanation to the section, the income tax authorities, who were empowered to conduct survey under the section and take various actions during the survey operations, included an Inspector of income-tax who conduct survey only when so authorized by

the Income-tax Officer and the Deputy Commissioner or Assistant Director could not authorize an Inspector to conduct a survey. To remove the lacuna, the Amendment Act, 1987, has amended clause (a) of the Explanation to provide that instead of only the Income-tax Officer, any Income-tax authority mentioned in the section can authorize the Inspector of income-tax to conduct the survey”.

10. New Clause (c) was inserted in Sec.133 A by the Finance Act, 1995 with effect from 1.7.1995 extending the places which could be the subject of an entry. It read as under :

“(c) any place in respect of which he is authorized for the purpose of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place.”

11. Amendments were also made in the Explanation appearing at the end of the section. The expression “income-tax authority” appearing in the Explanation at the end of the section was enlarged to include “Commissioner”, and a “Director” or a “Deputy Director”.

12. The Board clarified that this amendment was introduced to accentuate the operational efficiency of the Department as also to cover large premises, and the power is to be exercised when on receipt of unexpected information from any external source warranting immediate action, the specified authority having jurisdiction is not available. Power has been given for officer having territorial or other jurisdiction to authorize any other officer to conduct survey.

13. The need for this amendment was explained in the “Notes on clauses” as under :

“Clause 28 seeks to amend section 133 A of the Income-tax Act relating to power of survey.

The proposed amendment seeks to provide that an income-tax authority, having jurisdiction over an area assigned to him or in respect of any place occupied by any person in respect of whom he exercises jurisdiction, may authorize any other income-tax authority to exercise the power of survey. It has also proposed to widen the scope of the expression “income-tax authority” by including therein a Director, Commissioner and a Deputy Director.

This amendment will take effect from 1st July, 1995.”

14. By Circular No.717, dt.14th August, 1995 the Board vide para 42 has explained the amendments made from 1.7.1995 by the Finance Act, 1995 as under:

42.1 Authorisation for conducting survey

Section 133 A of the Income-tax Act, 1961 empowers an income-tax authority to conduct survey. The term “income-tax authority” for the purpose of conducting survey has been defined in the Explanation, appearing at the end of section 133 A, to mean a Deputy Commissioner, an Assistant Director or an assessing officer and for some specific purposes, if authorized, an Inspector of income-tax. The powers of these authorities are restricted to their territorial jurisdiction resulting in operational difficulties whenever any of the specified authorities is not available for conducting a survey on the basis of any unexpected information from any external source warranting immediate action. Secondly, in the case of a big assessee, services of a number of officers may be required. Therefore, in order to accentuate the operational efficiency of the Department as also to cover large premises, the existing law has been amended to provide that the Deputy Director, the Director and the Commissioner will also have powers to conduct survey and an officer having jurisdiction over an assessee or within the limits of his territorial jurisdiction can authorize any other officer to conduct survey.

15. The Finance (No.2) Act, 1998 replaced the words “Deputy Commissioner or Deputy Director” by “Joint Commissioner or Joint Director” with effect from 1.10.1998.

16. Finance Act, 2002 amended sub-section (3) with effect from 1.6.2002, so as to provide that an Income-tax authority (other than Income-tax Inspector) acting under the said section may impound and retain in his custody books of account or other documents inspected by him after recording his reasons for so doing. It further provided that such books of account or other documents should not be retained for more than 15 days without obtaining the approval of the CCIT or DGIT or CIT or DIT therefor. Further, the Finance Act omitted the words “any books of account or other documents or” in sub-section (4) to enable the income-tax authority acting under this section to remove or cause to be removed any books of account or other documents.

17. Finance Act, 2003 restricted the period of retention of books to 10 days (excluding holidays) instead of 15 days (excluding holidays) u/s.133A(3)(b). The definition of income-tax authority was also modified under the Explanation to that section.

18. CBDT in para 62 of Circular No.7 of 2003 (263 ITR 105 St.) have explained as under :

“Modification of provisions relating to survey under section 133A:

Under the existing provisions of section 133A of the Income-tax Act, an income-tax authority conducting a survey is authorized to verify and

make an inventory of cash, stock or other valuable article, record the statement of any person, inspect books of account or documents, place mark of identification, and also impound and retain in his custody books of account or other documents after recording reasons for doing so. Such books of accounts or other documents can be retained by the Income-tax authority for only 15 days without the approval of Chief Commissioner or Director General or Commissioner or Director, as the case may be.

Clause (ia) in sub-section (3) of the section has been amended to provide that an income-tax authority shall not retain such books of account or other documents for more than 10 days without obtaining the approval of the Chief Commissioner or Director General, as the case may be. Thus, the time period for which books can be retained has been reduced from 15 days to 10 days. Also approval of the Chief Commissioner or Director General is required for retention beyond 10 days.

It has been provided that no action under section 133 A shall be exercised by Assistant Director of Deputy Director of Assessing Officer or a Tax Recovery Officer, or an Inspector of Income-tax without the prior approval of the Joint Director or the Joint Commissioner, as the case may be.

This amendment will take effect from June 1, 2003.

19. As per Explanatory memorandum this provision has been inserted “with a view to prevent the destruction or misappropriation of any evidence found during survey, it is to empower the income tax authority to impound and retain in his custody books of account or other documents inspected by him during survey after recording his reasons for doing so”.

20. **Section 133A now reads as under :**

Power of survey.

133A. (1) Notwithstanding anything contained in any other provision of this Act, an Income-tax authority may enter-

- (a) any place within the limits of the area assigned to him, or*
- (b) any place occupied by any person in respect of whom he exercises jurisdiction, or*
- (c) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,*

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any

proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession-

(i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

(ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation.-For the purposes of this sub-section, a place where a business or profession is carried on shall also include any other place, whether any business or profession is carried on therein or not, in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept.

(2) An Income-tax authority may enter any place of business or profession referred to in sub-section (1) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

(3) An Income-tax authority acting under this section may,-

(i) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,

(ia) impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him:

Provided that such income-tax authority shall not-

(a) impound any books of account or other documents except after recording his reasons for so doing; or

(b) retain in his custody any such books of account or other documents for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be

(ii) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,

(iii) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.

(4) *An Income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any cash, stock or other valuable article or thing.*

(5) *Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.*

(6) *If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income-tax authority shall have all the powers under sub-section (1) of section 131 for enforcing compliance with the requirement made.*

Provided that no action under sub-section (1) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.

Explanation.-In this section,-

(a) *“income-tax authority” means a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax.*

(b) *“proceeding” means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.*

CHAPTER - III
SURVEY UNDER SECTION 133A OF THE I.T. ACT

The provisions of Section 133A were introduced by the Finance Act, 1964, and were later substituted by the Taxation Laws Amendment Act, 1975. Two types of surveys are envisaged u/s.133A viz., surveys u/s.133A(1) and surveys u/s.133A(5). This chapter deals with surveys u/s.133A(1)

Income-tax Authorities empowered to carry out survey

2. The Income-tax Authorities empowered to carry out survey u/s. 133A(1) have been enumerated in the Explanation (a) at the end of the section. These authorities are Commissioner, Joint Commissioner, Director, Joint Director, Deputy Director or Assistant Director or an Assessing Officer or a Tax Recovery Officer. In addition, the Inspector of Income-tax, may exercise the powers only u/s. 133A(1)(i), 133A(3)(i) and 133A(5).

Places where survey can be carried out

3. For conducting a survey u/s.133A(1), an income-tax authority is empowered to enter any of the following places at which a business or a profession is carried on, whether such place be the principal place or not of such business or profession:-

- a) any place within the limits of the area assigned to him, or
- b) any place occupied by any person in respect of whom he exercises jurisdiction; or
- c) any place in respect of which he is authorised, for the purposes of section 133A, by such income tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place.

4. Survey can also be carried out at any other place - whether any business or profession is carried on therein or not - in which the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are/ is kept.

5. Powers of Income-tax authority acting u/s.133A(1):

- a) To inspect books of account or other documents as he may require and which may be available at the place of survey.

- b) With effect from 01.06.2002, to impound and retain in his custody for such period as he thinks fit any books of account or any other documents inspected by him. The books of account or other documents can be impounded only after recording the reasons for doing so. The impounded books of account or other documents cannot be retained in his custody for a period exceeding 10 days (exclusive of holidays) without obtaining the approval of the Chief Commissioner of Income-tax or Director General of Income-tax, as the case may be.
 - c) To place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom.
 - d) To check or verify the cash, stock or other valuable article or thing which may be found in the place surveyed.
 - e) To make an inventory of cash, stock or other valuable article or thing checked or verified by him.
 - f) To obtain from the proprietor, employee or any other person attending to, or helping in, the carrying of business or profession at the time of survey, information as to any matter which may be useful for, or relevant to, any proceeding under the Income-tax Act.
 - g) To record the statement of any person which may be useful for, or relevant to, any proceeding under the Income-tax Act.
 - h) Section 133A(6) empowers the Income-tax authority conducting the survey to exercise the powers u/s.131(1), if the person covered by the proceedings u/s.133A either refuses or evades to afford facilities for the aforesaid actions to the Income-tax authority or to furnish any information or to have his statement recorded. Non-compliance with the summons u/s.131(1) of the Act invites penal action u/s.272A(1)(c).
6. The Income-tax authority carrying out a survey u/s.133A(1) is specifically prohibited from removing or causing to be removed from the place of survey any cash, stock or other valuable article or thing.

Obligations of persons whose premise is surveyed

7. During the course of survey, the proprietor, partner, employee or any other person attending to, or helping in, the carrying on of the business or profession is required to :
- a) afford to the income-tax authority conducting the survey, necessary facility to inspect such books of account and other documents as he may require and which are available at that place;

- b) afford necessary facility to check or verify the cash or stock or other valuable article or thing which are found at that place;
- c) furnish to the Income-tax authority conducting survey such information as may be required on any matter which may be useful for, or relevant to, any proceeding under the Income-tax Act and
- d) offer all clarifications as may be required by the Income-tax authority.

Hours of Survey

8. An Income-tax authority may enter any place of business or profession, referred to above, only during the hours at which such place is open for the conduct of business or profession. Once entry into the premises is made, survey can continue even after sunset or the business or office hours.
9. In the case of a place where the books of account or documents or cash, stock or other valuable articles or things relating to the business or profession are stated to be kept, the Income-tax authority may enter such place only after sunrise and before sunset.

Pre-survey work

Selection of the case for survey

10. Selection of good cases is the most important aspect for conducting successful survey operation. Maximum care should therefore be taken in selecting good cases for survey. It is not possible to lay down any general criteria for selection of cases for survey. Since a case is to be selected for detecting concealed income, any industry wise or trade wise generalization is neither proper nor fair as trait of concealment of income depends on a particular assessee and not on a particular type of business or profession.
11. For selecting the case, any one or more of the following **sources of information** may be tapped.
- (a) Statistical Reports: Statistical reports available in the Range office, information regarding assessee's claiming deductions under Chapter VIA, statistics of advance tax paid, assessee's claiming losses regularly, CIB database, AIR database, BCTT information, information furnished by the Financial Intelligence Unit, India (FIU-IND), etc.
 - (b) Internet : Surfing of trade related web sites on internet gives useful information on various business organisations at one place making it easier to compare these with each other.

(c) Trade journals and Magazines: Such publications sometimes give financial performance and other information which may not be available in Departmental records.

(d) Case Records: Assessee's case records with the Department are the most important source of information. Without studying case records, the case should not be selected for survey. Some of the suggested indicators are very low net profit rate, huge creditors, abnormal fall in gross profit rate, low household withdrawals, multiple loan accounts, etc.

(e) Other Govt. Departments & Agencies: The data base of other Government Departments and Agencies as well as orders issued by them provide useful information about an assessee and may constitute strong evidence against him.

(f) Other sources: Market information through Tax Evasion Petitions, etc.

12. It is not always possible to get specific information about tax evasion of a particular assessee. Therefore, some generalities may have to be drawn for selecting cases for survey. The guidelines given below are only broad general indicators.

(a) Survey operation may be undertaken during, and as an aid to, ongoing assessment proceedings where the assessee is recalcitrant in giving details called for or there are reasons to suspect tax evasion from the records.

(b) High declared turnover with no commensurate income may be an indication for selecting a case. In cases of such assessee, frequent large expenses on advertisements may be another indication for selection.

(c) Another way of selecting a case would be to first select a particular sector which is doing very well in the economy at the relevant time and then find out a case showing poor results by studying the records.

(d) In cases where the assessee is maintaining stock registers, comparison of the quantity of the physical stock with that in stock registers as well as verification of the valuation of stock as at the end of the accounting period may lead to detection of concealment.

(e) Detailed scrutiny and analysis of profit and loss account and balance sheet of the short listed cases for survey is necessary as these may show "odd" or "peculiar features" in assessee's case and quantum involved in each of such area.

(f) For carrying out detailed analysis of profit and loss account and balance sheet, one may use different 'financial ratios' to narrow down on assessee's "problem areas". For the detailed write-up on 'financial ratios', Chapter 13 of '*Techniques of Investigation for Assessing Officer*' published by Directorate of Income-tax (RSP & PR) may be referred to.

(g) As far as possible, survey may be carried out during peak season of the assessee's business. During or just before starting of the peak season, possibility of finding difference in stock and finding evidences of unexplained investment in stock is likely to be high. Conversely, survey carried out during lean season may not give satisfactory results.

(h) Unconventional/new lines of businesses/profession where assesses are not filing returns regularly.

Preparation of Survey

13. The information about the person to be surveyed should be kept confidential. If any discussion with other officers/authority in the matter is necessary, it should be done in general terms without revealing the identity of the person.

14. For ascertaining proper details, confidential information regarding the premises/businesses/sister concerns, security aspects, etc should be obtained by a secret visit to the premises where surveys are to be conducted. Without a visit to the survey premises it is not possible to estimate the requirement of manpower. Further, such visit makes the officer familiar with the surroundings and other concerns operating from the same premises. Such visit may be made to understand the assessee's accounting procedures or the lack of it. In all the cases, if there is a prior knowledge of the type of records maintained by the assessee, assessing officer will have effective control during the survey operation.

15. It is also advisable to find out the role played by different partners/directors in the business before carrying out survey. The identification of "main" and trusted employees in the business is also essential as they provide vital information of business during survey. Information about the time when the premises generally opens for business should be gathered before conducting the survey. The striking time should be fixed so that it ensures presence of the main persons in the premises.

16. In vital or big survey operations, the residential addresses of partners, directors and main employees of the business concern should be kept ready for such circumstances where it may be required to

convert the survey into a search. This information will ensure speedy action and reduce possibility of shifting/destruction of incriminating evidence.

17. Manpower requirement may be worked out on the basis of the number of premises to be covered, number of entry/exit doors, size of the premises (number of floors), the quantity of stock to be valued, etc. For ascertaining the number of premises to be covered, case records should be perused carefully, assessee's website (if any) should be browsed, telephone directory grouping should be seen and all advertisements should be scrutinised meticulously. Proper reconnaissance work must be carried out and correctness of the address of the premises to be surveyed should be ensured.

18. After drawing the estimate of total manpower required, survey teams should be formed. Preferably, each team should have a minimum of two officers. The number of support staff will vary according to the requirements. For larger premises, more than two officers may be required for effective control. Depending on requirements, specific roles to the members in survey team may be assigned, such as taking details of bank accounts, inventory of stock and its valuation, browsing through the accounts, documents, etc.. Further, while organizing a survey, refreshments for members of survey teams should be made so that acceptance of assessee's hospitality is completely avoided.

19. It would be desirable to prepare a brief for each survey team for ensuring effective and meaningful work during survey. The survey team may also be given location map of the premises to be surveyed for ensuring simultaneous strike by all the teams. The team leaders should also be given the list of all premises being covered during survey for effective coordination. They may also be given the cell phone numbers of other survey team leaders to help them co-ordinate with each other. The team leaders may be briefed about the specific issues expected to be found/investigated at their premises. They may also be briefed about "problem areas" discovered during study of assessee's financial statements. Survey leader can contact them at the appropriate time to avail their help for updating accounts.

20. All the teams should be provided with a survey kit which should contain

- a) Authorisation of survey duly signed and sealed by competent authority. The format of order authorising an Inspector to conduct survey is annexed at **Annexure A**. In case of authorisation being for another officer, his name and designation can be used.
- b) Stamp and Seal of the officer leading th survey team.

- c) Stationery items like pins, U-pins, stapler, punch, poker, tags, white thread, Adhesive Tape, Lac, candle, match box, metal seal, Blank papers, Blank folders.
- d) Inventory forms for “books of account found”, “cash found” and “stock found”
- e) Blank summons forms
- f) List of main questions to be asked during preliminary statement (**Annexure B**)
- g) List of main questions to be asked during final statement
- h) Form of ‘Record of Survey proceedings’ (**Annexure E**).

21. Vehicle arrangements for each team should be made and time of departure from office for each team should be determined in advance to ensure all teams strike simultaneously. If considered necessary, local police should be requisitioned, especially in sensitive cases.

Conducting the Survey

22. Generally officers of the rank of Deputy/Assistant Commissioner or Income-tax Officers carry out survey under the direct supervision of Joint/ Addl. Commissioner of the Range, in consultation with the Commissioner of Income tax. Inspectors of Income tax are normally authorised for carrying out such surveys which involve only verification of books of account for ascertaining the entry of particular transaction by a business concern. The Officer proposing to conduct a survey should record the reasons for conducting the survey in a ‘**Preparatory Note**’ and obtain the approval of the jurisdictional Joint/Additional Commissioner of Income Tax.

23. Conduct of a survey has two aspects. First, the actual conduct of survey at business/professional premises; and second, coordinating the survey operations from the control room in the office. Within two hours of commencement of the survey operation, intimation should be sent by the survey team to the jurisdictional Commissioner of Income Tax. The need for co-ordination of survey from the control room generally arises during survey conducted along with the search or in cases of survey operations where a large number of premises are covered.

24. The Income-tax authority authorising or conducting a survey should be clear about the objective of the survey i.e., the type of information proposed to be obtained and should be fully familiar with the relevant provisions of the Income-tax Act and Income-tax Rules. The Income-tax authority authorising, supervising or conducting the survey should prepare contingency plans for any alternative action if the particular

person or the particular accounts or documents are not available at the premise or for any other eventuality.

25. The members of the survey team should carry with them their valid Identity Cards. The first task of the survey operation is successfully getting entry into the business premises. Since strangers are common and are expected to visit business premises, getting entry into business premises should normally not pose problem for any survey team. Survey team may find it difficult to enter into business premises having restricted entry either due to their exclusiveness or because of some illegal nature of business being carried on. For example, gaining access to a gambling club will be more difficult as compared to normal business premises. The information of possible difficulty in getting entry into business premises could be ascertained during pre-survey decoy visits. For obtaining access into premises which are difficult to enter, taking help of other government agencies, such as the local police, may be considered.

26. Before obtaining entry, all entry and exit points should be secured. After obtaining entry, as far as possible, it should be ensured that the assessee does not pass on the information of the survey to his other premises at least during the initial hours. This will ensure that the evidence will not be shifted/destroyed at other premises in case the other survey teams do not maintain simultaneous strike time for some reason.

27. Before recording the preliminary statement, the assessee may be asked to afford inspection of all books of accounts and documents which may be taken under survey team's control to prevent any destruction/manipulation. Similarly, access to the computer should be restricted to prevent any tampering. For handling of computer hardware and software, refer to **para 53** below.

28. If survey is conducted on a retail commercial establishment, the cash counter should be under close observation of the survey team to prevent destruction of 'current accounts'. It is often experienced that many assessees regularly destroy details of their unaccounted transactions. In such cases, survey team may get the details only for the previous few days. Therefore, cash counter is the most likely place where survey team may find recent records of unaccounted transaction. Similarly, main person's table and his cupboards should be identified and he should be asked to make available the documents, etc. kept therein for inspection. Further, addresses of other premises like godowns should be immediately found out from the main persons or employees. If any premise has not been covered in the survey, the

control room should be immediately informed for getting such premises covered.

29. The control room should be informed about entry and commencement of survey operations. The jurisdictional Commissioner of Income-tax should be informed about the survey and subsequent developments.

30. After obtaining information and taking the actions mentioned above, the team leader may proceed with recording of preliminary statement. Recording of preliminary statement should commence preferably within half an hour of strike time. A format of the questions to be asked in the preliminary statement is given as per **Annexure B**. It may be mentioned that the questions given are only indicative and not exhaustive and may not be applicable to all the types of surveys and situations.

31. Details of cash lying at the business premises should be ascertained through the preliminary statement because in cases of considerable amount of unaccounted cash in hand, the survey can be converted into search. Conversion of a survey operation into a search operation will have implications not only of cash seizure but also of covering the residential premises of partners/directors of the business concern. If it is considered necessary to convert a survey operation into a search operation, a satisfaction note should be prepared by the jurisdictional Additional/Joint Commissioner, in consultation with the jurisdictional Commissioner of Income tax, and sent to the DIT(Inv.) concerned for issue of warrant of authorisation.

32. It is necessary that discrepancies found during survey should be confronted to the assessee on the day of survey itself. This will prevent possible manipulation at the later stage. On the date of survey, the assessee is also most likely to offer truthful explanation for the discrepancies. For finding discrepancy in assessee's books as on the date of survey, actual cash and stock found will have to be compared with the cash and stock balance shown in the books. **Verification of cash by the authorised officer calls for the following steps :**

- i) Take charge of cash books, including main/subsidiary and rough/fair cash books as well as slips relating to cash transactions which are yet to be entered in such books.
- ii) Count the cash found and prepare the statement of same and get the signature of the person present on the statement so prepared.
- iii) Get the cash book updated till the time of preparation of cash inventory.
- iv) Check payments and receipts with reference to the vouchers or other evidence.

- v) Ascertain the difference between the cash found and cash as per the cash book and obtain an explanation or reconciliation for the difference, if any, which should be signed by the person present.

Verification of stock

33. The Income-tax authority conducting the survey should find out the precise nature of business carried on by the person at whose premises the survey is being conducted and also collect information about the nature of stock, types of Stock Register(s) and other documents being used for maintenance of stock. He should also find out whether under any law or rules applicable to the business, it is obligatory for the assessee to maintain a stock register or any other document for stock. The principles laid down in the decisions of the Supreme Court, regarding valuation of stock, in Sakthi Tading Co. vs CIT (2001) 250 ITR 871, Sanjeev Woolen Mills vs CIT (2005) 279 ITR 434, CIT vs British Paints India Ltd. (1990) 188 ITR 44 and A.L.A. Firm vs CIT (1991) 189 ITR 285, should be followed.

34. For valuation of stock, purchase price code should be immediately obtained. Most business concerns dealing in retail print purchase price code along with the sale price. This helps them in valuing the stock at cost price and more importantly, ascertaining the extent of bargaining they can afford to do with the customer without incurring loss on a particular item. Once purchase code is obtained, the valuation of closing stock at cost price can be done. Timely start of valuation of closing stock is necessary as, in case of the availability of huge stock, valuation would be time-taking and physically tiring. If purchase price is not available, stock can be valued at sale price. From the aggregate value of stock, gross profit should be reduced to arrive at the value of stock at cost price.

35. For drawing trading account as on the date of survey, the figure of opening stock is normally available with the survey team from the last year's return (if filed). The total purchases and sales from 1st April of the year to the date of the survey should be obtained from the assessee's accountant who is entrusted with the task of updating accounts. Gross profit may be taken as an average of last three years' gross profit. By entering the figures of opening stock, purchases, average gross profit and sales in the trading account, resultant figure of closing stock according to the books can be worked out.

36. The value of stock as per books so obtained by above method should be compared with the value of total closing stock found on physical valuation done by the survey team. The discrepancy found

should be confronted to the assessee who should be asked to explain or reconcile the same.

37. It should be found out whether the assessee has credit facilities with any bank, and if so, whether he has furnished any stock statement to the bank for the previous month/quarter. It should be checked whether the quantity of stock reported to the bank tallies with the stock shown in the stock register. If the two figures do not tally, the person whose premises is being surveyed should be asked to explain or reconcile the difference.

38. The authority conducting the survey should ascertain whether the stock found also includes items on which the date or month of manufacture is required to be stamped under any statutory enactment, order or rule. In case the stock found comprise such items, suitable sample checks and comparisons of the stamped dates with the entries made in the stock register and other documents like purchase bills could be useful. This may give a clue as to whether there are any purchases/sales outside the books.

39. At times, survey teams come across stocks kept in the assessee's premises without corresponding bill. The most common explanation offered for such practice is that such stock is received on approval basis and as such neither paid for nor accounted in stock book. This explanation should be fully verified and cross-checked. Where information is received that the assessee has kept stock at another business premise(s), a separate authorisation should be obtained for conducting survey at such other premises also.

40. The books of accounts, if incomplete, must be updated on the basis of purchase and sale vouchers. Care should be taken to include consignment sales and consignment purchases till the date of survey. Preferably, only assessee's accountant should update the accounts. Therefore, before recording the preliminary statement, presence of the assessee's accountant may be ensured. He should be put on the job of updating the books of accounts, whether maintained manually or on computer.

41. When valuation of stock is under progress, the officers may go through the books, documents and loose papers found and offered for inspection at the premises. The important documents and loose papers may be segregated for enquiry with the main person at a later stage.

42. For detecting suppression in sales or inflation in purchases, one should compare original documents (such as sale bills, purchase invoices or notings found in slips or diaries) with finalised accounts.

43. For detecting any irregularities in the books or suppression of production, it is necessary to first understand the entire process followed by the assessee. One may have to sit down with employees to understand how transactions are recorded by each of them at different stages. Once the process is understood, it would be possible to find deviations. There may be a pattern of deviations from the established practice of maintaining records. For some of the deviations, the assessee may have genuine explanations to offer. However, some deviations may lead to detection of concealment.

44. In cases of manufacturing concerns, the raw material issue register and register of finished goods maintained as per the applicable Excise Rules should be scrutinised. If the quantity of raw material and of finished goods found on physical verification does not tally with the figures as per the registers, the person present should be asked to explain or reconcile the difference.

45. Because of the volume of the business, sometimes it may not be possible to quantify concealment for the entire year on the day of survey. In such a case, concealment should be quantified for a particular period say one month or two-three months and may be used for estimation for other periods. Part-period unaccounted transaction can be extrapolated to determine the concealed income for the entire financial year [**Commissioner of Sales Tax, Madhya Pradesh V. H.M. Esufali, H.M. Abdul (1973) 90 ITR 271 (SC)**].

Common defects in stock taking

46. Some common defects in stock taking are enumerated below. Care should be taken to prevent such defects/deficiencies from taking place at the time of stock-taking.

- a. The stock inventory may not indicate the name of the assessee, the address of the assessee, the address of the business premises and godowns and date of survey.
- b. It may not indicate the name of the person/employees who assisted in taking stock inventory.
- c. Name of the Income Tax official(s) who assisted in taking stock inventory may not generally be mentioned anywhere.
- d. Inventories should be got certified by the assess or the person in charge and should also be countersigned by the officials who took the inventory.
- e. Complete details of the items such as their descriptions, quantity, make, size, weight, volume, length, etc. are not mentioned in the stock sheets.

- f. The fact whether the goods were in good quality or were bad/ defective/rotten/ damaged are generally not mentioned.
- g. There is no uniformity and consistency in inventory format prepared by different teams in the same premise and in respect of similar stock.
- h. The stock as per books is generally not determined on the spot. It is left to be done in the office. This gives adequate opportunity to the assessee to manipulate the entries in the books.
- i. The valuation of stock or determination of the investment in the stock is also deferred for being done in the office. There is no rechecking or any random checking, so as to be sure about the correctness of the inventory.
- j. Stock may be found in different stages of production. It is not clearly mentioned what will be the value addition at different stages.

47. A Statement (under oath), relating to verification of stock, should be recorded. Some useful questions that may be put before the assessee are as under:

Q.1 Please identify yourself?

Q.2 What is the system of stock taking followed by assessee - continuous, annual, or both?

Q.3 When was the physical stock last taken by the business entity?

Q.4 Where are the worksheets of actual physical verification of stock last taken?

Q.5 Whether any stock has arrived before purchase is recorded?

Q.6 Whether any stock has been lifted before sale is recorded?

Q.7 Is there any stock sent or recorded as sample for approval? Please furnish corroborative evidence

Q.8 Has any stock been received from or sent for job work?

Q.9 Whether any stock has been held by assessee as consignee?

Q.10 Whether any stock is lying with assessee's consignee?

Q.11 Is there any stock in transit ? Please furnish corroborative evidence.

Q.12 Please provide details of key loan stock.

Q.13 Are any stock lying in other premise/godowns ?

Q.14 Do you have anything to add or alter to any of the statements made above?

Stock Inventory - Classification & Measurement Principles**A. Classification**

48. Inventories are current assets :

- (a) Held for sale in the ordinary course of business.
- (b) In the process of production for such sale (commonly known as work-in-progress) or
- (c) in the form of materials or supplies to be consumed in the production process or in the rendering of service (such as raw materials, components and stores and spares being consumed regularly in the production process).
- (d) In the case of a service provider, inventories include costs of the service, for which the entity has not yet recognized the related revenue.

B. Measurement

- (A) Finished goods and work-in-progress are measured at the lower of cost and net realizable value.
- (B) Raw materials and stores and spares are usually computed at cost. However, in certain situations, raw materials are computed at replacement cost.
- (C) The cost of inventories comprise all costs of purchase, costs of conversion and other costs incurred in bringing the inventories to their present location and condition.
- (D) Conversion cost is the total of labour cost and manufacturing overheads. It does not include administrative overheads, selling and distribution overheads and abnormal costs of production.
- (E) Cost and Net Realisable value are compared for each class of finished goods and work-in-progress separately.

Determination of value addition of stocks found in different stages of production

49. It is possible that during the course of survey of a manufacturing unit, one may come across goods lying in different stages of production. There may be various methods for determining the value of stock lying in each stage of production.

50. Determination of value addition in each stage of production can be illustrated by an example. Suppose, to the raw material, value addition is made and product goes into stage "A". Further value addition is made and the product goes to stage "B". Thereafter, with further

addition of some raw material or processes, it becomes a final product. Thus, there are four stages i.e., raw material, stage "A" to stage "B" to final product. One method may be to compare the valuation of semi-finished goods done by Auditor in the last balance sheet. The Pro-Rata value addition per unit adopted in the last balance sheet may be adopted for the semi-finished goods found in the survey.

51. Another method would be as under :

(i) Determine total number of hours taken (Z) for converting raw material to final product. Number of hours taken for coming to the stage of "Z" is X and that for coming to stage "B" is "Y", both starting from beginning.

(ii) Find out total expenses incurred for arriving at final product for "N" number of units. Thus, if total expenses for making "N" units is "E", then the expenses incurred per unit per hour would be $E/N \times Z$. Thus for working out value addition at stage "X" would be

$$\text{For stage "A" - } \frac{E \times X}{N \times Z} \text{ per unit}$$

$$\text{For stage "B" - } \frac{E \times Y}{N \times Z} \text{ per unit}$$

(iii) This pro-rata distribution of expenses on hourly basis may be done to determine value addition at each stage.

(iv) If the records are available, actual value addition on the basis of raw-material consumed at the different stages and labour input and processing charges may be worked out. However, this process may be cumbersome and only an expert like Cost Accountant may be able to do it. Therefore, Pro-rata distribution of expenses on hourly basis or day basis should be the better alternative. The assessee may also be asked to work out for himself the value addition at different stages.

Effect of the stock difference in assessment proceedings

52. In course of survey u/s.133A if the physical verification tallies with the book record or the difference is explained, no consequences follow. This is a rare occurrence. Normally two broad situations arise on account of stock difference :

(a) Stock Excess : In case excess stock is found (as compared to book records), it would represent unexplained income either of the year under survey or of past years. The assessee may be asked to give an explanation in terms of section 69 and if the explanation is not satisfactory it will be treated as a case of unexplained

investments. The total value of such addition would be Purchase cost + Direct cost .

(b) Stock Shortage : As regards shortage of stock as compared to book records, the quantum of income which is unrecorded would depend on facts and circumstances of the case. The entire shortage may either represent undisclosed income or, if it has been utilized for the purpose of expenditure (purchases) which is not reflected in the books, the income may be only to the extent of profit embedded in the sale. To elaborate, the stock shortage may have been due to unaccounted sales (Purchase + Direct cost + GP) and if this is coupled with excess cash, then this point will be reinforced. The stock shortage may also give rise to the suspicion that certain amount of fictitious purchases have been debited to the account without physical receipt of goods. To follow up this lead, the trade creditors may be scrutinized minutely.

Handling of Digital Evidence

53. For handling of digital evidence, following issues are of relevance:

(i) The Income Tax Act, 1961 takes cognizance of digital evidence. For example, printouts of data stored in a floppy, disc, tape or any other form of electromagnetic data storage device is included in the definition of 'books or books of account'.¹ The definition of 'document' under the Act includes an electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000.² The Act empowers the Authorised Officer to require any person who, in the course of survey, is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in section 2(1)(t) of the Information Technology Act, 2000, to afford him the necessary facilities to inspect such books of account or other documents.

(ii) Computer is the principal digital device. There are, however, a number of other audio, video, communication and photographic devices, which can also be described as digital devices. Some digital devices that an authorised officer may come across in the course of survey are: (i) Computers, either stand- alone or networked; (ii) Laptops and notebooks, which are mobile computers; (iii) Palmtops, which are extremely small but powerful devices with considerable memory capacity and communication facilities; (iv) Data storage devices like, floppies, CDs, DVDs, pen drives; and (v) Electronic

¹ See section 2(12A) of the Act.

² See section 2(22AA) of the Act.

diaries and cell phones, etc. These devices may vary in looks and appearance and may be of different sizes and shapes. While the stand-alone desktop computers are easy to identify, it requires some inspection to find out whether they are networked. The networking may be through cable links that are visible or through satellite, microwave, terrestrial line or other communication media that can be detected through examination of the Operating System (OS) that is used. For example, when Microsoft Windows is used as the OS, the menu item 'My net work places' in the Control Panel will reveal this information.

(iii) **Basic guidelines for the survey party** : These guidelines for the survey party are only indicative in nature. The basic purpose of these guidelines is to ensure that the person in respect of whom survey is being conducted or the person in control of the computer systems at the time of survey is not able to tamper with data stored digitally in computers or other such devices. The survey party has to act in such a manner that the integrity of the data is maintained and its evidentiary value is not affected. With this end in mind, some dos and don'ts are suggested as follows.

Dos

- (a) Take control of mobile phones, electronic diaries, etc. The advanced mobile phones can be used to operate remote devices as well as for data storage. These can be operated innocuously without being noticed.
- (b) Take control of the computer systems and their power supply to prevent deliberate switching off of the system.
- (c) Disconnect any routers, modems or any other wireless LAN devices to prevent remote access.
- (d) Look for storage devices such as pen drives, CDs, DVDs, floppy disks, etc.
- (e) Identify the key persons in-charge of the systems.
- (f) Make an exhaustive inventory of systems and peripherals.
- (g) Make a list of hard disks to be impounded.
- (h) Make a list of important folders/files to be copied. Generally the entire disc will be copied and data retrieval will be done only with the help of the copy of the disc but if it is found that there are some important files in the system, making a note of these files may be useful later.

- (i) Obtain print outs, if feasible.
- (j) Record the statements of authorised personnel about user levels, access passwords, operating system, accounting package modifications, encryption algorithms used, etc. and other relevant issues.

Do nots

- (a) Do not switch off any computer that is working as this will cause loss of volatile data in the memory of the computer, which may be of crucial importance. Additionally, it would involve the need to invoke passwords to re-login and initiate programs. The assessee might get an opportunity to prevent crucial programs from loading.
 - (b) Do not allow any personnel of the assessee to access or operate the system.
 - (c) Do not allow any unauthorised inputs or keystrokes even by the members of the survey team.
 - (d) Do not allow remote operations.
 - (e) Do not allow removal by the assessee of any material such as CDs, DVDs, floppy disks or drives from the premises.
 - (f) Do not allow any person, even from the survey team, not conversant with computers, to deal with them in any manner.
- (v) **Access to the Data Storage devices, password protections :** The person concerned is legally bound to reveal the passwords and other information required for accessing such data. In case he refuses to do so, the fact should be recorded in the form of a statement on oath. There may be situations where access to a device is protected by passwords. There could be passwords to access the system or individual files may be password protected or encrypted. There may be different levels of securities. Primarily it is the work of an expert to break through these passwords. The Authorised Officer should be aware that though it is a painstaking and arduous process, in many cases, such passwords can be cracked by experts. If one comes across files, the contents of which do not make sense, it could be an encrypted file and expert help should be taken to understand or decrypt it. To login into a LAN environment the Authorised Officer should know the password of the super user or supervisor. This may be obtained from the person found to be in-charge of the system. It is only after logging into the LAN environment that the authorised officer can have access to its

contents. Suitable measures should be taken to restrict access to network contents and possible manipulation of data.

(vi) **Retrieval of deleted files** : Restoring the deleted files from the Windows Recycle Bin is a simple task. However, while restoring the files from the Windows Recycle Bin, care should be taken that a file of the same name in the destination folder is not overwritten. Even if the files are deleted from the Recycle Bin 'permanently', it is possible to retrieve the files in certain circumstances through bit-by-bit mapping of the hard disk of the computer. Utilities/software is available in market, which could be used to restore and read such files. Every operating system uses what is known as a file allocation table (FAT) to maintain information about sector-wise storing of files. Every file that is stored in a computer is split into parts and stored in clusters/sectors. It is not necessary for the operating system to store files contiguously. A file may be stored in hundreds of different locations in a hard disk. Whenever necessary, the operating system will recover it and present it to the user as one whole. When a file is deleted, the FAT simply changes the name of the file and removes it from its table. However, all the data that were in the file continue to remain in the hard disk, unless overwritten. Because of this feature, even permanently deleted files can be recovered using commercially available software. It is therefore advisable to examine the contents of the hard disk drive for such deleted files which may contain information about unaccounted transactions.

(vii) **Remote Storage of data** : It is possible to store data in a remote device with the help of Internet. Detection of whether the assessee has been storing data and files in remote storage media/websites will require some detailed probing. The history folder of the web browsers, like the Internet Explorer would contain the list of sites visited. Examination of the details available in this folder may help identify remote storage of files. Similarly e-mail accounts should also be scrutinised. The active files, backup files, log files, configuration files, printer, Cookies, Swap files, hidden files and System files should also be examined to find out the possibility of remote storage as well as locally concealed storage. Within the device or hardware it can reside in various types of files and folders and in softwares like accounting packages and enterprise resource packages. Apart from the local storage devices, there are options to store data in websites, which offer the facility for a fee or free. Some of the popular hosts offering off-site online backup solutions are asigra.ds3, data vaulting, e-vault, live-vault, drive

hq.com, esnips.com and storage.eweek.com. These days, storage in Google docs is also prevalent. Free e-mail facility of large storage capacity is also offered by many service providers. An important aspect of human psychology is that in cases of important data being stored in such devices, the passwords and other relevant information are written in some diary, note book, etc. and a vigilant person can identify that these are passwords.

(viii) **Modus of impounding of the devices and their authentication** : The decision regarding impounding should be based on the same considerations as are applicable to impounding of books of account and other documents. The decision whether to impound only the hard disk or the entire computer should be taken keeping in view the hardware environment and other technical factors. If it is decided to impound the hard disk, two complete back-ups of the computer-hard disc on CDs, DVDs, etc. should be made. Adequate care should be taken to protect the hard disk/computer from static electricity, magnetic fields, shock, dust and moisture. It should also be ensured that the machine is not mishandled in any manner and that while shifting or moving the machine there are no heavy jerks and the floppy drive is closed with a paper floppy inside it. In case the system contains volatile data, specialised software should be used to capture data resident in the memory. The memory chips used in phones, digital diary, etc. can also be copied on to computers for recovery of files.

(ix) **Printout of Data stored digitally** : If possible, hard copy (three copies) of the data stored in the computer, floppies, CD, etc. should be taken out. This is highly advisable in the case of floppies, as the probability of the data getting lost with the passage of time is very high here. These should be signed by the Authorised Officer and the person in whose case the survey is being conducted. One of the hard copies (duly signed) should be given to the person in whose case the survey is being conducted, or if such person is not available, to the person in whose possession or control the computer, floppies, CDs, etc. were found.

(x) **Precautions to be taken for retaining the integrity of the retrieved data for Assessment /appeal purposes** : The Authorised Officer and his team should impound the devices containing the digital evidence in such manner that the integrity of data in the original cannot be questioned. As far as possible, only a copy should be used for examination. Where, in exceptional circumstances, it becomes necessary to examine the original data, there should be a

clear record of audit trail showing all the processes that were undertaken to examine the data.

Other aspects to be seen during survey

54. Other aspects to be seen during the course of survey would be cash credits, long pending trade credits, long pending un-cleared consignment transactions, claims of depreciation, deductions under Chapter VIA, claims of exempt income, etc. For verifying claims of depreciation, deductions under Chapter VI-A and Exemptions under Section 10 during surveys, specific strategies are to be adopted as detailed in **Annexure C**. The income-tax authority conducting survey should at all times be vigilant and look for any books of account, papers, diaries and other documents, etc containing suspicious entries. Where rubber stamps are found in the premises, impression thereof should be taken and the person present should be asked to authenticate the same. Special care should be taken to detect TDS violations, especially if the main objective of a survey is to find out whether the person is fully complying with the TDS provisions. A checklist for carrying out surveys specifically for TDS matters is at **Annexure D**.

Recording of final Statement

55. Final statement should be recorded of a person who has direct knowledge of the business. If such a person is not available, the statement should be recorded of any other responsible person.

During recording of final statement following issues should be covered :-

- Documentary evidence regarding assessee having kept his stock somewhere else.
- Documentary evidence regarding assessee keeping someone else's stock in his premises.
- Identification of defective goods and its valuation.
- Quantification of purchase returns and sales returns in the year along with documentary evidence.
- Confirmation of stock valuation method followed by the assessee.
- Confirmation of assessee not having any objection to the value of stock taken and method of valuation followed by the Department during survey.
- If the assessee voluntarily declares certain concealed income, declaration should have following elements.
 - Statement that it is an additional income over and above regular income.

- Assessment year for which it is offered.
- Income-head under which it is offered.
- Transaction/manner in which such income is earned and the documents on the basis of which such income is offered for tax.

56. A statement can be recorded by the competent income-tax authority conducting the survey, but not by the authorised Inspector. While recording the statement, the following points should also be kept in mind:

- i) No promise, threat or inducement should be offered.
- ii) The statement should preferably be recorded in the language known to the deponent. The Income-tax authority should read over and explain the statement to the deponent if the statement could not be recorded in the language known to the deponent.
- iii) Conjectures and surmises should be avoided in the statement.
- iv) Additional income disclosed by the assessee should be based only on documentary evidence
- v) It is settled position of law that any statement obtained under promise, inducement or threat or compulsion has no evidentiary value. Any promise to waive penalty or not to reopen assessments for earlier years are avoidable inducements.

Preparation of Inventory and impounding of books, etc.

57. If books of account and other documents are found, the income-tax authority conducting the survey should examine the books of account or the other documents and then decide whether these would be useful in the assessment or other proceedings and accordingly take a decision for impounding of the books, documents, etc. If considered necessary, the Range head may be consulted.

58. Detailed inventory should be prepared of all the books/documents and valuables found at the premises. The marks of identification should bear full signature of the authorised officer with date and office seal. The pages of the documents impounded should be serially numbered and mentioned in the inventory. The blank pages should be cancelled and numbered.

59. For impounding the books of account and inventorising the same, the prescribed procedure should be scrupulously followed. Reasons for impounding should be properly recorded. The order impounding books of account and documents should be prepared and duly served

on the assessee. Where the books of account are not fully updated, the authorised officer should also impound all preliminary documents on the basis of which entries were made to complete them, so as to prevent fabrication of evidence at a later stage.

60. All extracts taken should be properly authenticated. While impounding loose papers, they should be arranged in bundles in a folder or stitched on the left hand top. Each paper should be numbered, signed by the assessee and by the authorised officer. However, where the number of papers is large, the pages can be numbered and sealed with lac on a side. In the inventory, it may be mentioned that a particular bundle of papers contains specific number of pages.

61. For ensuring timely completion of survey, the team leader may plan the work properly so that the time gaps during which officials are waiting for directions can be avoided.

62. A record of survey proceedings should be prepared at the time of conclusion of survey. A format for the same may be seen at **Annexure E**.

Carrying out post-survey work

63. After completion of survey, the first work is of sending the survey report. The format of survey report is at **Annexure F**. Where the survey is conducted by the officers working in the charge of Commissioner of Income-tax, it must be ensured that the copies of the survey report are sent to the Commissioner of Income-tax/Director of Income-tax(Inv.) and the Range Addl./Joint Commissioner of Income-tax. Where the survey is conducted by the Directorate of Income-tax (Inv), copies of the survey report should be forwarded by the authority conducting the survey (through the Joint/Addl. Director in-charge of the Investigation Unit) to the jurisdictional Commissioner and the Range Additional/Joint Commissioner under intimation to the Director of Income-tax (Investigation) within 48 hours of the conclusion of the survey.

64. Application seeking permission for retention of impounded books of account should be immediately forwarded to the Chief Commissioner/Director General within the time prescribed, i.e. within 10 working days.

65. After completing above mentioned procedural work, the Assessing Officer may carefully go through the recorded statement, impounded material and documents for the following purposes :

- Identifying weak areas of the recorded statement which could be used by the assessee as an escape route to avoid tax liability.

Such escape routes can be plugged by conducting further investigation and by recording statements of the persons concerned.

– Third party enquiries or recording of statements etc., wherever required, should be done. Identifying areas which should be further strengthened by carrying out further investigation.

66. It may be emphasized that for ensuring success, time is the key factor in post-survey investigation. The necessary post-survey investigation must be carried out quickly to prevent the assessee from resorting to any possible fabrication of evidence which will nullify the result of a successful survey.

Report on Surveys conducted

67. A monthly report on survey carried out under the jurisdiction of each DGIT/CCIT is to be furnished to CBDT, the format of which is annexed at **Annexure G**.

CHAPTER - IV
SURVEY OF OSTENTATIOUS EXPENDITURE
UNDER SECTION 133A(5)

Introduction

Certain income-tax authorities have been empowered u/s.133A(5) to get full information about the nature and scale of expenditure, incurred by an assessee in connection with any function, ceremony or event. Sub-section (5) of section 133A provides that *“where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income tax authority is of the opinion that it is necessary or expedient to do so, he may at any time after such function, ceremony or event, require the assessee, by whom such expenditure has been incurred or any person who, in the opinion of the Income-tax authority, is likely to possess information as respects the expenditure incurred to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used as evidence in any proceeding under this Act.”*

Objective

2. This provision is intended to detect ostentatious expenditure made by persons from undisclosed sources. The power is given to the income-tax authorities including an Inspector of income-tax to collect the information after the function, ceremony or event is over. It is not necessary for this purpose that this enquiry be made during the course of or pendency of any proceedings. The objective is to collect evidence soon after the function, ceremony or event is over as it may not be possible to do so effectively after lapse of time.
3. The Board in Circular No.179 dated 30.09.1975 has clarified that the power to collect information and record statements will be *“at any time after any function, ceremony, or event and even before the stage of assessment proceedings for the following year for which the information may be relevant”*. The Board has further clarified that *“the object of this provision is to help collecting evidence about ostentatious expenditure, immediately after the event, to be used at the time of assessment”*.
4. Thus, the proceedings under the Act, as referred to in section 133A(5), would normally be the proceedings for the assessment year corresponding to previous year in which the said expenditure is incurred. The main purpose of collecting information or details about the

expenditure would be to find whether all the expenditure incurred has been made from disclosed sources or whether the tax payer is using his unaccounted wealth or income for meeting such expenditure.

Conditions for invoking section 133A(5)

5. Powers under section 133A(5) can be invoked if the income-tax authority, on considering reports about the nature and scale of expenditure incurred by an assessee in connection with any function, ceremony or event, is of the opinion that it is necessary or expedient for him to invoke the power under section 133A(5).

6. Use of the words '*having regard to the nature and scale of expenditure*' imply that the income-tax authority will not make such enquiry in each and every case. The income-tax authority will consider the nature and particularly the scale of expenditure on the function, ceremony or event and only if he finds that the nature and scale is substantial enough to provide useful material for the purpose of assessment and penalty proceedings, he may invoke the provisions of sub-section (5) of section 133A.

7. Use of the words '*is of the opinion that it is necessary or expedient so to do*' implies that the income-tax authority should not recklessly proceed with such enquiry without first considering the necessity or expediency of doing so. If, for example, the nature of the function is such that the evidence is not likely to be destroyed or effaced, he may not proceed with the enquiry by invoking this extraordinary power as in such a case the enquiry may be made even in the ordinary course of assessment proceedings.

Survey after the function and not during the function

8. Collection of information has to be after the function, ceremony or event is over and not before the function. There is no provision for collecting information during the function or the marriage or other ceremony. This is so as business or profession is not being carried on at the time the assessee is hosting a party or function. This would be so, even if the function is inauguration of any new business or factory or profession, as at the premises no business or profession can be said to be carried on at the time of hosting of function.

Income-tax authorities empowered to carry out survey

9. The income-tax authorities empowered to carry out a survey under sub-section (5) of section 133A have been enumerated in the Explanation (a) below section 133A(6) of the Income Tax Act, 1961. They are: Commissioner, Joint Commissioner, Director, Joint Director, Assistant

Director, Deputy Director, Assessing Officer, Tax Recovery Officer and Inspector of Income-tax.

10. While all the aforesaid income-tax authorities have the statutory power to conduct survey under section 133A(5) of the Income-tax Act, the Board have issued Instruction No: 1865, dated 14-11-1990 placed at **Annexure-H** to the effect that such surveys are to be conducted only by the Investigation Wing of the Department. If the Commissioner is of the opinion that powers u/s 133A(5) should be exercised in respect of any particular function, ceremony or event, he may have the survey conducted through the Investigation Wing.

Powers of the Income-tax authority acting u/s 133A(5)

11. The powers of the income-tax authority acting u/s 133A(5) are:

- to require the assessee who has incurred the expenditure or any other person who, in the opinion of the income-tax authority, is likely to possess information about the expenditure incurred, to furnish such information as may be required, which may be useful for, or relevant to, any proceeding under the Income-tax Act;
- to record the statements of the assessee or any other person about the expenditure incurred by the assessee for any function, ceremony or event. Such a statement can be used as evidence in any proceedings under the Act.
- Section 133A(6) empowers the income-tax authority conducting a survey (other than an authorised Inspector) to exercise powers u/s 131(1) of the Income-tax Act for enforcing compliance with the requirement if the person covered by the proceedings u/s 133A either refuses or evades to furnish any information or to have his statement recorded. It would be advisable if mention of section 133A(6) is also made in the summons issued to enforce compliance with the aforesaid requirements. Non-compliance with the summons under section 131(1) of the Income Tax Act, 1961 invites penal action under section 272A(1)(c).

Types of functions, ceremonies and events which can be covered u/s 133A(5)

12. It is not possible to give an exhaustive list of functions, ceremonies and events which can be covered u/s 133A(5). The 'nature and scale of expenditure' referred to in Section 133A(5) should ordinarily refer to large scale expenditure. However, a list of some such functions, ceremonies and events is given below:

- Marriage and other connected functions and ceremonies

- Inauguration of new business
- Inauguration of new house
- Birthday and other such functions.
- Social parties and gatherings like New Year Eve parties; film premiers/functions to celebrate launching or success of a film, etc.
- Functions and ceremonies to celebrate festivals and occasions like Diwali, Holi, New Year, Christmas which, inter-alia, involve expenditure on costly gifts.
- Functions for introduction/launching of new commercial products, etc.

Identification and selection of cases for survey u/s 133A(5) and gathering of intelligence

13. Enquiry can be made from the person by whom the expenditure has been incurred or any person who, in the opinion of the income-tax authority, is likely to possess the information on expenditure incurred by the assessee. For example, in the case of a marriage, he may make enquiries from a hotel, a restaurant, its managers, employees, caterers, decorators, printers of invitation cards, persons who attended the ceremony, the jeweller, cloth trader, the tailor and any other person who may give information with regard to the expenditure incurred by the assessee at the time of marriage.

14. For identifying and selecting a case to be covered by survey u/s 133A(5), intelligence/information may be gathered from the following sources (not exhaustive) :

- Printing presses primarily engaged in printing of invitation cards
- Prominent hotels and guest houses
- Prominent clubs
- Barat Ghars/Marriage halls
- Caterers
- Decorators
- Tent houses and tent suppliers
- Prominent band agencies
- Musical parties, entertainment parties etc.
- Event managers
- jewellers

15. Intelligence from the above sources may also be gathered on advance booking made, amount paid as advance, mode of payment of advance,

name and address of the person who has made the booking or on whose behalf the booking has been done and nature and extent of services which were availed. These inquiries should be conducted very discreetly. Such cases should be selected where substantial expenditure is likely to be incurred.

Some important points relevant to conducting of survey u/s 133A(5)

16. Some points relevant to conducting of survey u/s 133A(5) are briefly discussed below:

- Although intelligence gathering, which would help in identifying a function, ceremony or event to be selected for survey, may precede the function, ceremony or event, the actual survey, including recording of statements of the assessee and other witnesses, is to be conducted only after the function, ceremony or event is over. The time gap between recording of statements of various persons should, however, be kept to the minimum and at the same time without inviting any hostilities. The statements should be matched and compared with one another with a view to detecting discrepancies and ascertaining the factual position.
- Before undertaking a survey u/s 133A(5), the concerned authority should clearly record his opinion that it is necessary or expedient to collect information with regard to expenditure incurred in connection with the function, ceremony or event selected for the purpose.
- If the survey is to be carried out by an Inspector, a proper authorisation, signed and sealed by the competent authority should be issued / obtained (Format of the order authorising the survey authorities is at **Annexure 'I'**).
- It should be ensured that the income-tax authorities conducting survey carry their valid identity cards, designation rubber stamp and enough stationery with them.
- It should be ensured that sufficient / proper manpower is deployed for the survey.
- The income-tax authority authorising or conducting survey should study the assessment and other records of the person and be fully familiar with the relevant provisions of the Income-tax Act and Rules.
- When a number of income-tax authorities are simultaneously conducting inquiries from a number of persons or recording their statements, a written brief should be prepared and given to each of the said authorities. This will ensure uniformity of approach in the gathering of information.

Some examples of type of information which should be gathered during survey under section 133A(5)

17. It is not possible to list out all the items of expenditure on which information should be collected in the course of the survey. The types of expenditure in respect of which details may be collected are :

- Invitation/wedding cards.
- Sweets distributed along with invitation cards.
- Stay of guests in hotels, guest houses, clubs, houses taken on hire, Barat ghar/marriage halls.
- Catering and food supplied by the hotels, clubs, caterers, sweets shops etc.
- Illumination, decoration and furniture taken on hire.
- Travelling expenses including air travel, rail travel, engaging of buses, taxies etc.
- Hiring of band.
- Engagement of musical parties, singers, stage artists, qawalis, etc.
- Photography, including video photography.
- Gifts and presents given to the bride, bridegroom and guests.
- Purchase of jewellery and ornaments.
- Expenses in connection with foreign travel and stay of bride and bridegroom immediately after marriage.

Recording of statement

18. An important part of the survey u/s 133A(5) is recording of a statement. In the statement of the assessee or any other person, recorded immediately after the function, ceremony or event is over, it is necessary to make him commit on the quantum of cash gifts received by him so that the amount admitted is not inflated subsequently for the purpose of explaining the expenditure.

19. The collection of information from another person is relevant for correlating the same with the information supplied by the tax payer. In fact, if the assessee had arranged the function by securing the services of a caterer or hotel or restaurant, the information collected from the caterer should be specific i.e. the number of persons for whom the food was served, the rate charged per person and total payments received before or after the function. This reconciliation or lack of it, has to be explained by the assessee. The authority can record his statement after collecting the information and ask him to explain the difference between

the two figures, if any. Similarly, if the assessee has not disclosed expenditure incurred on a particular item, he can be questioned on that aspect.

20. Other points mentioned in the chapter on survey u/s 133A, on recording of statement should also be kept in view.

Investigation after collection of information

21. The inquiries conducted and information collected should be followed up by further investigation by collecting evidence from outside agencies which have supplied goods and services in connection with the function, ceremony, or event. After the expenditure incurred on the function, ceremony or event has been quantified, the concerned assessee may be confronted with the same. Requisite inquiry with regard to source of funds for expenditure should also be made from him. A logical conclusion should be drawn with regard to the quantum of expenditure incurred by the assessee and also the source thereof.

Report on survey under section 133A(5)

22. After completion of the survey, a report should be prepared on the operation and result of the survey. The ADIT(Inv)/DDIT(Inv) conducting/organizing the survey should make out a self-contained report setting out the following information:

- i. Name and address of the assessee.
- ii. PAN, if allotted, and designation of the Assessing Officer.
- iii. Object of the survey, giving nature and date of function, ceremony or event.
- iv. Brief narration of work done and material found during survey.
- v. Details of statements recorded.
- vi. Assessment Year(s) for which the information will be relevant.
- vii. Comments.
- viii. Signature.

23. The Income-tax authority conducting the survey should also enclose such materials as may have been collected in the course of the enquiry with the report. The self contained report should thereafter be put up to the Director of Income tax (Inv) through the concerned Joint/Additional Director of Income tax (Inv). The Director of Income tax (Inv) should then give his specific recommendation about the assessments to be taken up for scrutiny and should forward the report to the concerned Commissioner under intimation to the Director General of Income tax

(Inv). A monthly report of the surveys carried out u/s 133A(5) should be sent to the Board in the proforma as per **Annexure G**.

Supervision and monitoring

24. Inquiries in connection with survey u/s 133A(5) should be supervised by the Directors of Income tax(Inv)/Commissioner of Income Tax. These cases should be monitored by the Directors General of Income-tax(Inv).

Register of surveys

25. Registers should be maintained in each circle/ward wherein entries should be made immediately after the conclusion of the survey. The format of this register is at **Annexure-J**. Entries in this register should be reviewed by the A.O. every month while sending the monthly report on survey in the prescribed proforma.

26. This register should be scrutinised by the Additional Commissioner/Commissioner in the course of inspection of the work of the Assessing Officer to see whether the survey provisions have been effectively and properly put to use and that findings during the survey have been duly followed-up.

27. Similar registers should be maintained by the Deputy Director/Assistant Director in respect of surveys conducted under his direction. Information relating to such survey should normally be passed on to the Assessing Officer promptly. The date on which the information is so passed on should be noted in the remarks column.

28. The Director/Additional Director should periodically scrutinize the registers to see that necessary follow-up action has been promptly taken.

CHAPTER - V
FREQUENTLY ASKED QUESTIONS
REGARDING SURVEYS

1. **Question** : *Can survey u/s.133A be carried out at the residential premises?*

Answer : No, except where the residential premise is the place of business/profession or when the assessee states that the books of account or other documents, or any part of cash or stocks or other valuable article or thing relating to business or profession are kept in residential premises. However, in the residential premises any jewellery, cash or other valuable article or things which is not relating to business should not be looked into. The entry should be during business or office hours.

2. **Question** : *Can survey u/s.133A be carried out beyond normal hours of business and profession?*

Answer : No. However, u/s.133A, once entry into the business premises has been made during the hours of business, survey may continue beyond business hours or office hours.

3. **Question** : *Can the shop or office be sealed during survey?*

Answer : No. Under section 133A shop or offices cannot be sealed during survey.

4. **Question** : *Can survey of a place other than the business place be done beyond the normal business hours u/s.133A?*

Answer : Yes, but only after sunrise and before sunset, provided the person carrying on the business or profession states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession are or is kept in that place.

5. **Question** : *Can survey of a business place be done if it is found locked?*

Answer : An income-tax authority acting under section 133A can enter only if the business place is open during the normal business hours.

6. **Question** : *Can books be impounded u/s.133A?*

Answer : Yes. Books can be impounded u/s.133A after recording reasons for doing so. The impounded books of account can be retained for a period not exceeding 10 days (exclusive of holidays).

Thereafter, retention can be done only with the prior approval of CCIT/DGIT, as the case may be.

7. **Question** : *Can cash, stock or any valuable be seized and removed under section 133A?*

Answer : No, there is absolute prohibition to seize cash, stock or any valuable articles or things.

8. **Question** : *Can a survey u/s.133A be converted into a search?*

Answer : Yes, when as a result of information gathered in survey, conditions laid down in clauses (a), (b) or (c) of section 132(1) are fulfilled.

9. **Question** : *Can books be inspected by an Inspector?*

Answer : Yes Under section 133A, authorised inspector can inspect books of accounts.

10. **Question** : *Can an Inspector record statement?*

Answer : No. Except for information relating to expenses on any function, ceremony or event [sec.133A(5)], the Inspector cannot record a statement.

11. **Question** : *Who can issue authorisation under section 133A?*

Answer : The authorisation u/s.133A can be issued by any of these authorities viz., Commissioner, Addl. Commissioner, a Joint Commissioner, a Director, a Joint/Addl. Director, a Deputy Director or an Assistant Director or an Assessing Officer or a Tax Recovery Officer.

12. **Question** : *Can an Inspector enter business premises without an authorisation duly signed and sealed by a competent authority?*

Answer : No. Under Section 133A an Inspector can conduct survey only if he is authorised by the specified authorities.

13. **Question** : *What remedy is open to the assessee against entry by an unauthorised person on the pretext of carrying out survey ?*

Answer : He may not permit such entry and also take action under the Indian Penal Code for trespass.

14. **Question** : *Can survey be done at the godown?*

Answer : Yes, u/s.133A, survey can be done at godown.

15. **Question** : *Can survey be done at branch office?*

Answer : Yes. Survey can be done at a branch office under u/s.133A

16. Question : *Can survey be done when assessment is not pending?*

Answer : Yes. Power of survey u/s.133A can be exercised at any stage irrespective of whether any proceeding is pending or not. The power can be exercised even in respect of proceeding which may be commenced after conduct of the survey operations.

17. Question : *Can an inquiry about ceremony or marriage expenses be made while the ceremony is going on?*

Answer : No. Section 133A(5) specifically bars the conduct of enquiry during the ceremony/event. Such enquiries are to be conducted only after the ceremony/event is over.

18. Question : *Can normal conduct of business be stopped during a survey?*

Answer : No. The assessee should be allowed to conduct normal business during a survey.

19. Question : *Whose statement can be recorded during survey?*

Answer : During survey, statement of proprietor, partner, director, employee, or member of an AOP/BOI can be recorded. Statement of any other person who may be present at the time and place of survey and is attending to in any manner in the conduct of business or helping in carrying out such business may be recorded.

20. Question : *Can an assessment be re-opened on the basis of survey report*

Answer : Yes, if information gathered during survey u/s.133A or u/s.133A(5) is sufficient enough to form a belief that any income chargeable to tax has escaped assessment, then assessment can be re-opened subject to the provisions of sections 149 and 151.

ANNEXURE - A

**AUTHORISATION FOR SURVEY UNDER SUB SECTION(1) OF
SECTION 133A OF THE INCOME TAX ACT, 1961**

In exercise of the powers conferred by Section 133A of the Income Tax Act, 1961 (43 of 1961), I hereby authorise Sarva Shri/Smt./Km. _____ Inspector(s)** of Income Tax to enter the premises at _____ which is a place within the limits of the area assigned to me/which is the place occupied by Shri/Smt./Km. _____ in respect of whom I exercise jurisdiction and at which place a business or profession is carried on, and require any proprietary, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to afford the said Inspector(s) of Income Tax the necessary facility to inspect such books of account or other documents as he/they may require and which may be available at such place.

2. The said Inspector(s) of Income Tax may enter the place of business or profession referred to in paragraph 1 above only during the hours at which such place is open for the conduct of business profession/the place referred to in paragraph 1 above only after sunrise and before sunset.

3. The said Inspector(s) of Income Tax may if he/they so deems/deem necessary, place marks of identification on the books of account or other documents inspected by him/them and make or cause to be made extracts or copies therefrom.

Place:

Date:

Seal:

Commissioner/Director/Joint Commissioner/
Joint Director/Deputy Director/Assessing Officer/
Tax Recovery Officer

* Signatures of the Income Tax authority issuing authorisation.

** Name of the Income Tax authority issuing authorisation.

*** If an officer, other than Inspector is authorized, his name and designation should be duly entered in the authorisation

ANNEXURE - B**QUESTIONS TO BE ASKED IN THE
PRELIMINARY STATEMENT****(To be recorded under oath and verified at the end of the statement)**

- Please identify yourself? (It should include name, father's name, age, residential address, etc.)
- Please give details of your business concerns and sister concerns.
- Please give details of your family members who have interest in your concern.
- What are the sources of your income?
- Please furnish details of income-tax/wealth-tax furnished by you/your business concern(s)? (It should include details of PAN and preferably details of filing of assessment year-wise return of income, income declared each year and date of filing of return.)
- Whether the business concern has made any investment during financial year 2004-05 or any subsequent financial year in the high value transactions covered under the Annual Information Return? (the provisions of AIR may be explained to the assessee)
- Please furnish details of vehicles owned /used by the business concern
- Please furnish the details of bank accounts of the business concern in the following format.

Sl. No.	Name of the Bank account holder	Type of account and No.	Name of the Bank and Branch

- Please give details of immovable assets held by the business concern.
- Please give details of movable assets (FDs, term deposits, shares) held by the business concern.
- Details of various business concerns operating from the same premises/premises at which survey is being conducted (irrespective of the fact whether the deponent is partner/director or not in such concerns). Also give the details of all the other business concerns with address in the control of your or your family members or dependents.

- Do you maintain regular books of accounts? Where the books of account are kept (with address)?
- Who writes your books of accounts?
- What is the cash balance as per cash book in your office/godown?
- How much cash is in hand today in this business premise?
- Is your cash in hand kept elsewhere and if so address?
- What is the stock in hand as per stock register or as per books of account?
- Please state whether any of your stock is kept at someone else's premises? If yes, please mention location, quantity and value.
- Please state whether someone else's stock is kept in your premises? If yes, please mention quantity and value.
- Please identify the stock received without bill or in transit whether inward or outward?
- Please furnish bills against which no stock is received.
- Give details of TAN. If tax has been deducted by the concern, then details of TDS payments to the Central Government

ANNEXURE - C

**SURVEYS FOR VERIFYING CLAIMS OF
DEPRECIATION AND DEDUCTIONS/EXEMPTIONS****I Depreciation**

At times, survey is also conducted for verifying depreciation claims made by the assessee. For verifying depreciation claims, very existence of asset needs to be ascertained during survey. If the asset is not in existence, obviously, assessee's depreciation claim is bogus.

However, surveys carried out to examine when the asset was '*put to use for the purposes of business*' require careful preparation. In this category of cases, assets are either bought after the closure of financial year, or, even if the assets are bought in the earlier year, they are put to use in the subsequent year. In such circumstances, assessee's depreciation claim to the extent of earlier year's claim is false.

When there is a reason to suspect that assessee is claiming wrong depreciation year after year, survey should be preferably conducted in the first fortnight of April so that any assessee intending to make false depreciation claim does not get time to '*manufacture*' evidence in support of his assertion that the '*asset was put to use*' before closure of the year. Certain documents should be examined during survey to decide assessee's depreciation claim. These documents are useful even in cases in which bogus depreciation claim is made on non-existing asset which is claimed to be leased out. The assessee is in receipt of lease rental and this lease rental income is nullified against equivalent or higher amount of depreciation claim. List of the documents which require closer scrutiny during survey is listed as under:

1. Permission from authority to install machinery, if applicable (for example, installation of boiler requires permission from 'Inspector of Boiler')
2. Asset sale invoice (is the seller a reputed concern or is there any reason to suspect and carry out further investigations? Does he have capacity to sell the asset which he is supposed to have sold?)
3. Asset delivery challan
4. Transporter's bill
5. Receipt for payment of octroi/entry tax, as the case may be
6. Electricity bills to see any abnormal increase in electricity

consumption suggesting any manufacturing activity involving new assets.

7. Manufacturer's installation certificate.
8. Any internal manufacturing reports/ records evidencing manufacture.
9. Assessee's bank statement to examine how payment for the asset is made.

If the depreciation claim is found to be false, statements of all the concerned persons should be recorded on the date of survey itself to make the case stronger.

It may be mentioned that all such documents can be asked to be submitted during assessment proceedings also. However, survey action can be more effective in most of the cases because of its surprise element and its inherent advantage to conclude most of the issues on the date of survey itself. In the assessment proceedings, gathering all the above documents and recording of statements of all concerned persons may take months. Even after that, the issue may not reach its logical conclusion. Secondly, survey can also prevent fabrication of evidence, which is otherwise possible in the long drawn assessment proceedings.

II Deductions and Exemptions

Deductions and exemptions reduce assessee's taxable income. There are many sections in chapter-VIA of the Income Tax Act under which deduction is claimed. Similarly, section 10 of the Income Tax Act exempts certain income. For claiming deduction or exemption, assessee needs to fulfill certain mandatory conditions as provided in that particular section under which deduction/exemption is claimed. For example, section 80-IA provides that deduction will not be available on income of eligible undertaking, if the eligible undertaking uses old machinery for carrying out manufacture. Similarly, for claiming exemption on Capital Gain arising out of sale of agricultural land, it is necessary that the agricultural land sold should be situated beyond 8 kms. from the municipal limits of town having population of 10,000 or more.

Following issues may be considered before undertaking survey specifically carried out to unearth false claim of deduction or exemption -

1. Relevant section should be studied first to find the mandatory conditions provided in the section. During survey, it should be ascertained as to whether or not the assessee fulfills these mandatory conditions.

2. If the assessee does not fulfill these conditions, such facts should be brought on record either by recording statement of the concerned person or by collecting documentary evidence. For example, in the cases of false deduction u/s 80IA, it was found, in a particular case, that manufacturing activity was not carried out in the unit eligible for claiming deduction. In such a case, electricity bills showing little electricity consumption, telephone bills showing nominal telephone bills, insignificant expenses on security etc. were relevant evidence along with the recording of the statement of the concerned persons.
3. In some cases, business expenditure of eligible unit (to claim deduction) is debited in the accounts of ineligible unit. By this manipulation, profit (and consequently deduction of the eligible unit) is increased whereas taxable profit of ineligible unit is reduced. To detect such manipulation, account books of the eligible unit should be thoroughly examined to ascertain as to whether such manipulation is resorted to by the assessee or not.
4. Depending on a situation, it may be necessary to carry out enquiries with the concerned Government agencies or third parties and record the statement of relevant persons or obtain letters from such persons on the date of survey itself.

ANNEXURE - D**CHECKLIST FOR SURVEY IN TDS CASES****A. Before Survey**

- Collecting evidence of any default made by the assessee.
- Verification of the information from the relevant assessment records.
- Nature of business and payments made by the assessee.
- Examination of the payments with reference to the heads of TDS.
- Whether deduction has to be made under any other head.
- TDS return of the assessee for the last 3 years.
- No. of branches of the assessee company.
- Whether more than one TAN is applied.
- Collection of information from e-TDS returns filed.
- Reconnaissance of the premises to find out the computer infrastructure, division handling TDS matter etc.

B. During Survey

- Examination of the P&L account of the current year and last 2 years.
- Nature of the payments in these years.
- Identification of the deduction made under any of the TDS provision of Sec. 192 to 196D.
- Comparison of the payments shown in the P&L account and the TDS return filed.
- Collection of information of TDS certificate issued to different persons.
- Whether the tax has been deducted at the appropriate rate and under appropriate Section.
- Whether the tax deducted has been paid to Government account within the prescribed time limit
- In case of TDS on salary payments, the deduction claimed by employees, i.e. NSC deposit, PPF, House rent payment, donation u/s 80G, etc. should be verified. The perquisite valuation of the employees should be examined
- Regarding deduction against interest on securities, in cases of cumulative deposits/bonds, tax is to be deducted every time

interest is credited in the account of the payer and is not to be postponed till its maturity

- In respect of TDS against payments to contractors/sub-contractors, tax is to be deducted from (a) adjustable advance payments; (b) gross payments in respect of composite works contract; (c) payments made in pursuance of a contract or sub-contract, free of tax; (d) payments made for all types of contracts, including service contract, transport contract, material contract, advertising contract, broadcasting contract, telecasting contract, labour contract and works contract; (e) payments made to clearing and forwarding agents for carriage of goods; and (f) payments made to courier agencies for carrying documents, letters, etc.
- With regard to TDS on rent, tax has also to be deducted in respect of (a) fixed monthly warehousing charges; (b) composite charges paid/payable for use of premises or other services; (c) non-refundable advance, adjustable loan or deposit made; and (d) room rent for hotel accommodation taken on a periodical basis

C. After Survey

- A Preliminary/Interim report to be sent.
- Show-cause to be issued at the earliest.
- Order u/s. 201(1)/201(1A) to be passed immediately after collection of all relevant details
- Penalty proceedings under relevant section should be initiated
- Prosecution proceedings under relevant section should be initiated
- Other TDS ranges must be informed in cases of branch offices which are filing their TDS returns separately.

ANNEXURE - E

RECORD OF SURVEY PROCEEDINGS

- (A) Authorization in the case of :
 (B) PAN, TAN, Address & Telephone Numbers :
 (C) Assessed by :
 (D) Survey party consisting of :

AUTHORISED OFFICERS AND OTHER OFFICIALS

Name	Full Designation
1	
2.	
3.	
4.	

The authorization for survey under Section 133A of the Income Tax Act, 1961 in the case of (A) above to undertake survey the place mentioned at (B) above was shown and read to Mr/Ms _____ who was present at the premise at the time of commencement of survey. After the authorization was explained in local language, it was duly signed by him/her.

2. The above mentioned survey party offered themselves for personal search before commencing the survey which was taken/declined.

3. Survey of the above mentioned place was carried out by the survey party in an orderly manner without hurting the sentiments of any of the occupants of the premises. Nothing untoward happened in the course of the survey.

4. In the course of the survey

A) The following were found and inventorised*:

- i) Books of account and documents as per Annexure 'A' (_____ Sheets)
- ii) Stock inventorised as per annexure 'B' (_____ sheets)
- iii) Cash as per annexure 'C' (_____ Sheets)
- iv) Any other item.

B) The following were found and impounded*:

Books of account and documents as per Annexure 1 (Marks of identification were placed on these and the specimen of the marks

and the pages where these have been placed are shown in the inventory prepared.)

(* Format for preparation of Inventory enclosed)

5. In the course of the survey the authorized officer Mr/Ms _____ recorded the statements of Mr/Ms _____. No coercion, threat, inducement, promises or other influence was brought to bear on the above deponent. The statement was read over/explained in the local language viz _____ to the deponent who signed the statement in token of having understood its contents and of agreeing that it had been correctly recorded.

6. Before leaving the above mentioned place of survey the entire party again offered themselves for personal search which was taken/declined. No cash/other valuables was removed by the survey team from the premise. The above record of survey proceedings has been read by us/ explained to us in local language viz. _____ by Mr/Ms. _____ and is certified that it has been correctly recorded.

Signature of the
Authorised officer _____

Signature of the person
receiving the copy of the
Record of survey
proceedings _____

Name:
Designation

Name:
Position in/Relationship to 'A'

Date:

Seal:

Date:

**FORMAT FOR PREPARATION OF
INVENTORY DURING SURVEY**

**I List/Inventory of books of accounts, documents, etc. found/
impounded during survey carried out on (date of survey) _____**

List/Inventory of books of accounts, documents, etc. found/
impounded in the case of M/s _____ at
(address) _____

S. No.	Description	Total pages	Written pages	Period written for From— to —	Pages on which identification marks placed

Total Number of items of books of account, documents, etc on this page Total upto this page	Specimen marks of identification placed on various pages listed out

Signature of authorized officer
(with name and designation)

Signature of the party
(with name and position)

II List/inventory of jewellery found during survey carried out on (date of survey) _____

List of bullion (primary gold/silver, etc.)/gold ornaments and jewellery/silver articles found in the case of M/s _____
at (address) _____

S. No.	Description of articles	No.	Metal	Gross wt.	Estimated net wt.	Value (in Rs)
Total (wherever applicable)						

Signature of authorized officer
(with name and designation)

Signature of the party
(with name and position)

III Inventory of cash found during survey carried out on (date of survey) _____

Particulars of cash found in the case of M/s _____
_____ at (address) _____

S. No.	Bundle no./Dt.	Denomination	No. of pieces	Amount
Total				

Signature of authorized officer
(with name and designation)

Signature of the party
(with name and position)

**IV List/inventory of other assets found during survey carried out on
(date of survey) _____**

In the case of M/s _____ at
(address) _____

S. No.	Description of articles	No.	Metal (if applicable)	Gross wt. (if applicable)	Estimated net wt. (if applicable)	Value (in Rs)
Total (wherever applicable)						

Signature of authorized officer
(with name and designation)

Signature of the party
(with name and position)

**V Inventory of stocks found during the course of survey carried out
on (date of survey)**

In the case of M/s _____ at (address)
_____ stock was found as under :

S. No.	Description	Quantity (in Nos./ wt.)	Value (in Rs)	Basis of valuation	Remarks

It is verified that the stock has been inventorized by (name of official)
_____ in the presence of (name of person and his relation
with the assessee) _____ and has been correctly recorded.

Signature of
authorized officer
(with name and
designation)

(Signature and name
of the person and his
relation with party)

Signature of the party
(with name and
position)

ANNEXURE - F

SURVEY REPORT U/S. 133A(1)

(To be submitted by Authorised Officer within
48 hours from the conclusion of survey)

1. Name & address of the assessee :
2. Permanent Account Number/TAN :
3. Name, address & PAN/TAN of other concerns covered in the survey :
4. Total number & address of all premises covered in survey :
5. Status of all business/professional concerns covered in survey :
6. Date of survey with time of entry & time of conclusion :
7. Date of approval of survey (granted by appropriate authority) :
8. Name & designation of all members of the survey team :
9. Main issues/allegations on the basis of which survey was conducted :
10. Significant findings of the survey (include assessee's modus operandi, concealment of income, TDS violation, incorrect claims of exemptions/deductions, incorrect depreciation claims, etc.) (use Annexure to give full details) :
11. Persons present at the assessee's premises :
12. Details of statement recorded (Names of the persons and their relationship with the assessee) :
13. List of impounded books & accounts/documents :
14. Specific follow-up investigation/action proposed to be taken (use annexure if required) :
15. Any other remarks :

Signature of the Income Tax Authority

Column 10 of 'Significant Findings' of survey should contain -

1. List of books/documents seen, with details and places where identification marks have been placed;
2. Details of cash / stock seen, discrepancies if any noticed; reconciliation or explanation given by the person present;
3. Details of other significant transactions noticed;
4. Any other relevant matter.

ANNEXURE - G

SURVEY REPORT U/S.133A(1)

(Monthly report of surveys conducted - to be
furnished to Member (Inv.), CBDT)
(Vide F. No. 414/3/2005-IT(Inv. I))

Part A : Statistical report on surveys u/s133A(1)

No. of surveys u/s 133A(1) carried out during the month	Amount of undisclosed income detected during survey (in Rs. lacs)

Part B : Qualitative report* on surveys u/s133A(1)

S. No.	Name of the case	Date of survey	Amount of undisclosed income detected during survey (in Rs. lacs)	Nature of concealment detected (in brief)
1				
2				

[for cases in which detection of undisclosed income during survey is Rs 2 crore or more (in cases of metros) and Rs 50 lakh or more (in cases of other stations)]*

Part C : Report on surveys u/s133A(5) and other enquiries on expenditure on social occasions like marriages, parties, etc.

S. No.	Name of the case	Date of event	Amount of expenditure admitted (in Rs. lacs)	Amount of expenditure estimated on enquiry (in Rs. Lacs)
1				
2				

ANNEXURE - H**INSTRUCTION NO: 1865
DATE OF ISSUE: 14/11/1990**

Sub-section (5) of section 133A of the Income-tax Act, 1961 empowers an Income-tax authority to make enquiries and collect information in respect of expenditure incurred by a person in connection with any function, ceremony or event. The Income-tax authority is empowered to record statements of the person concerned or other persons, who are likely to possess information with regard to the expenditure incurred, after the function, ceremony or event is over.

2. In the context of the above, Member(Inv.) has already emphasised the need to make more effective and frequent use of the provisions of section 133A(5). Each Director of Income-tax(Inv) has been directed to conduct 50 such surveys during the year 1990-91.

3. To enable the income-tax authorities to conduct such surveys in a more effective and meaningful manner, it is necessary to lay down certain guidelines which may be of use to the officials conducting such survey. While actual enquiry and conducting of survey would depend upon the facts and circumstances of each case and the ingenuity exhibited by the concerned income-tax official, the guidelines laid down in the succeeding paragraphs would be of assistance.

4. It is not possible to give an exhaustive list of functions, ceremonies and events which can be covered under section 133A(5). However, a list of some such functions, ceremonies and events is given below:-

- (1) Marriage and other connected functions and ceremonies.
- (2) Inauguration of new business.
- (3) Inaugurations of new houses.
- (4) Birthday and other such functions.
- (5) Social parties and gatherings like New year Eve Parties; film premiers/functions to celebrate launching or success of a film etc.
- (6) Functions and ceremonies to celebrate festivals and occasions like Diwali, Holi, New Year, Christmas which, inter alia, involve expenditure on costly gifts.
- (7) Functions for introduction/launching of new commercial products etc.

5. For the purpose of identifying and selecting a case to be covered by survey under section 133A(5), intelligence may be gathered from the following sources:

- (i) Printing presses primarily engaged in printing of invitation cards.
- (ii) Prominent hotels and guest houses.
- (iii) Prominent clubs.
- (iv) Barat Ghars/Marriage halls.
- (v) Caterers.
- (vi) Decorators.
- (vii) Tent houses and tent suppliers.
- (viii) Prominent band agencies.
- (ix) Musical parties, entertainment parties etc.

Intelligence from the above sources may also be gathered with regard to advance booking made, amount of advance paid, mode of payment of advance, name and address of the person who has made the booking or on whose behalf the booking has been done, nature and extent of services to be availed of. It is needless to mention that such an enquiry has to be conducted very discreetly. An attempt should be made to select such cases where substantial expenditure is likely to be incurred.

6. Although intelligence gathering, which would help in identifying a function, ceremony or event to be selected for survey, may precede the functions, ceremony or event, the actual survey, including recording of statements of the assessee and other witnesses, is to be conducted only after the function, ceremony or event is over. This would be in accordance with the provisions of section 133A(5). The time gap between recording of statements of various persons should, however, be kept minimum without at the same time inviting any hostilities. The statements should be matched and compared with one another with a view to detecting discrepancies and ascertaining the correct factual position.

7. The information, which would help in quantifying expenditure incurred on the function, ceremony or event, may be collected in respect of expenditure on the following items:

- (a) Invitation cards.
- (b) Sweets etc. distributed alongwith invitation cards.
- (c) Stay of guests in hotels, guest houses, clubs, houses taken on hire, Barat-ghar/marriage halls etc.

- (d) Catering and food supplied by the hotels, clubs, caterers, sweets shops etc.
- (e) Illumination, decoration and furniture taken on hire.
- (f) Travelling expenses including air travel, rail travel, engaging of buses, taxies etc.
- (g) Hiring of bank.
- (h) Engaging of musical parties, singers, stage artists, qawalls etc.
- (i) Photography including video photography.
- (j) Gifts and presents given to the bride, bridegroom and guests.
- (k) Purchase of jewellery.
- (l) Expenses in connection with travelling and stay of bride and bridegroom immediately after marriage.

8. In the statement of the assessee, recorded immediately after the function, ceremony or event is over, it is necessary to make him commit on the quantum of cash gifts received by him so that the amount admitted is not inflated subsequently for the purpose of explaining the expenditure.

9. The enquiries conducted and information collected should be followed by further investigation by collecting evidence from outside agencies who have supplied goods and services in connection with the function, ceremony or event. This will include collecting of information from the concerned printing press, sweet shop, hotel, club, barat ghar/ marriage hall, decorator, tent supplier, florist, electric shop engaged for illumination work, Indian Air lines/Vayudoot, taxi and bus operator, photographer, jewellery shop etc. Information regarding the amount finally paid, mode of payment of the amount and the services availed of should be collected along with necessary evidence.

10. After the expenditure incurred on the function, ceremony or event has been quantified, the concerned assessee may be confronted with the same. Requisite enquiry with regard to source of funds for expenditure should also be made from him. A logical conclusion should be drawn with regard to the quantum of expenditure incurred by the assessee and also the source thereof.

11. It may also be pointed out that Surveys under section 133A(5) are to be conducted only by the Investigation Wing of the Department. If the Commissioner of Income-tax is of the opinion that powers under section 133A(5) should be exercised in respect of any particular function, ceremony or event, he may have the survey conducted through the Investigation Wing.

12. Before undertaking a survey under section 133A(5), the Assistant Director of Income-tax (Inv) should clearly record his opinion that it is necessary or expedient to collect information with regard to expenditure incurred in connection with the function, ceremony or event selected for the purpose. After the completion of survey, a report about the operation and contain the following information:

- (i) Name and address of the assessee.
- (ii) P A No., if allotted and designation of the Assessing Officer.
- (iii) Object of the survey, giving nature and date of function, ceremony or event.
- (iv) Brief narration of work done and material found during survey.
- (v) Details of statements recorded.
- (vi) Assessment Year(s) for which the information will be relevant.
- (vii) Comments.

The self contained report should thereafter be put up to the Director of Income-tax (Inv). through the concerned Deputy Director of Income-tax(Inv). The Director of Income-tax (Inv) should then give his specific recommendation about the assessments to be taken up for scrutiny and should forward the report to the concerned Commissioner of Income-tax under intimation to the Director General of Income-tax(Inv)

13. Enquiries in connection with survey under section 133A(5) should be supervised by the Directors of Income-tax (Inv). These cases should be monitored by the Directors General of Income-tax (Inv).

14. The Directors General of Income-tax (Inv). should, in appropriate cases, issue press releases giving broad details of the results achieved without mentioning the names of the persons covered in the survey under section 133A(5). No name of any official should be mentioned in any press release.

15. As already directed, a quarterly report giving the number of cases covered under section 133A(5) by each Director of Income-tax(Inv). and the names of the cases alongwith the quantum of expenditure found to be incurred should be furnished by the Directors General of Income-tax(Inv) so as to reach the Board by the 15th of the month following the quarter.

Details of note worthy cases should also be brought to the notice of the Board through separate reports.

ANNEXURE - I

**AUTHORISATION FOR SURVEY UNDER SUB-SECTION (5) OF
SECTION 133A OF THE INCOME TAX ACT, 1961**

Wherein having regard to the nature, and scale of expenditure incurred by Shri/Smt./Km. _____*
 _____ in connection with
 _____** _____ I am of the opinion
 that it is necessary to expedite to require Shri/Smt./Km. _____*
 _____, by whom such expenditure has been incurred
 and any other person who is likely to possess information as respects
 the expenditure incurred to furnish such information as to any matter
 which may be useful for, or relevance to, any proceeding under the
 Income Tax Act, 1961 (43 of 1961) and to have the statements of Shri/
 Smt./Km. _____* _____ or any other person recorded.
 Therefore in exercise of the powers conferred under Section 133A of the
 Income Tax Act, 1961, I hereby authorise Shri/Smt.Km. _____
 Inspector of Income Tax, to exercise the power under Sub-section (5) of
 Section 133A of the Income Tax Act, 1961. The said Inspector of Income
 Tax, at any time after the said function, ceremony or event, require
 Shri/Smt./Km. _____ by whom such expenditure has been
 incurred or any person, who in the opinion of Shri/Smt./Km. _____
 Inspector of Income Tax, is likely to possess information as respects the
 expenditure incurred to furnish such information as he/she may require
 as to any matter which may be useful for, or relevant to, any proceeding
 under the Income Tax Act, 1961 and may have the statements of Shri/
 Smt./Km. _____ or any other person recorded. Any statement so
 recorded may thereafter be used in evidence in any proceeding under
 the Income Tax Act, 1961.

Place:

Date:

Seal:

Director /Joint Director / Deputy Director

* Mention the name of the assessee

** Mention the name of the function, ceremony or event

ANNEXURE - J

REGISTER OF SURVEYS UNDER SECTION 133A

Ward/Circle

Sl. No.	Date of survey	Name, PA No. and address of premises surveyed	Result of survey in brief	Relevant Asst. Years	Date on which Survey Report sent to the superior officer	Revenue results and remarks
1	2	3	4	5	6	7

ANNEXURE - K

F.No. 287/79/2005-IT (Inv.II)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

Room No. 265-A, North Block
New Delhi dated 30th of May, 2007

To
All Chief Commissioners of Income Tax
All Directors General of Income Tax

Sir/Madam

Sub:- Revised Guidelines for sanction of Reward to officers and staff of the Income-tax Department - reg.

The Board has considered the existing scheme of reward to officers and staff of the Income-tax Department and has revised the existing Guideline for grant of such rewards, which is elaborated as under.

1 Reward to Assessing Officers for Scrutiny Assessments u/s 143/147 of the IT Act (other than those covered under paras 2 and 3 below)

1.1 Assessments u/s 143(3)/147 are made by Assessing Officers of the rank of Deputy/Assistant Commissioners of Income Tax and Income Tax Officers. In some stations, assessments are also made by the Additional/Joint Commissioners of Income Tax. Quality assessments, both on factual and legal issues, not only raise the efficiency level for effective tax administration, but also act as a deterrent for tax evasion, thereby raising the cost of such evasion. Accordingly, it is considered necessary to recognize the efforts of such Assessing Officers who, through investigative skills, hard work and dedication, make substantial additions in the course of assessment proceedings which stand the test of appeal and generate additional revenue for the Government. It has, accordingly, been decided that cases in which substantial additions in assessments u/s 143(3)/147 of the IT Act have been made, would be eligible for reward under the following conditions :

- (i) The addition is based on original enquiry/investigation carried out by the Assessing Officer and is not based merely on the additions made on similar issues in earlier assessment years without any additional input/investigation.
- (ii) Where additions are made on the basis of information/report/

order received from any other authority, including Tax Evasion Petitions received from various sources, to qualify for reward, the additions should have been made after further enquiry/investigation by the Assessing Officer, and not merely on the basis of the information/report/order so received.

- (iii) The addition made is not in consequence of or to give effect to an order of the Supreme Court or a High Court in any other case or to give effect to any retrospective amendment of law.
- (iv) The addition(s) referred to in clauses (i) and (ii) is/are sustained, whether totally or partially, in the appellate proceedings or revisionary proceedings.
- (v) Tax on the additions sustained at the appellate stages and/or due to revisionary proceedings has been collected.
- (vi) The additions do not result only in reduction of losses; and
- (vii) The minimum tax effect of the additions referred to in clauses (i) and (ii) in a particular assessment year is as under :

Sr. No.	City where the case has been assessed	Corporate cases (in Rs. lakh)	Non-corporate cases (in Rs. lakh)
1	Delhi and Mumbai	60	40
2	Ahmadabad, Bangalore, Chennai, Hyderabad, Kolkata and Pune	45	30
3	Other cities	30	20

1.2 The Assessing Unit would be eligible for reward in respect of the cases fulfilling the conditions referred to in para 1.1 above, upto 2% of the tax collected, subject to an overall limit of Rs 50 lakhs and the ceilings prescribed in para 5.2 below. The internal distribution of reward within the Assessing Unit would be as under :

- (i) Assessing Officer : 80%
- (ii) ITIs : 15%
- (iii) Officials below ITI : 5%

1.3 In situations where levels at (ii) or (iii) above have not made any contribution in the case, no reward shall be granted to them. The Additional/Joint CIT (Range Head) shall also be eligible for reward, but only in respect of the qualifying cases in which directions u/s 144A of the IT Act have been given by him specifically on the issues referred

to in para 1.1 and has also made significant contribution in the process of investigation and quality of order. In such cases, the Additional/Joint CIT (Range Head) would be eligible for reward upto 30% while the Assessing Officer's share would be 50%.

1.4 The above guideline shall apply in respect of assessments made u/s 143(3)/147 in financial year 2006-07 and subsequent years. All earlier cases will be dealt by the Reward Guidelines of 1985. However, the Committee competent to grant reward in such earlier cases would be that specified in Para 5 below.

2. Reward for Search and Seizure operations/assessments

2.1 For search and seizure cases, (a) the team processing the search and seizure operation, (b) the teams participating in the search and seizure action; and (c) the assessment unit doing the search and seizure assessment, would be eligible for reward. The basis for reward in Search and Seizure cases would be the 'Group' in respect of which the search and seizure action and survey action (carried out along with the search) is undertaken and by combining all the assessment years of that Group covered u/s 153A/153C of the IT Act, including the Assessment Year pertaining to the year in which search was carried out. The Reward proposal for the Group shall be processed and decided simultaneously for all the three teams - the processing team, the team participating in the search action, and the Assessment Unit.

2.2 For searches carried out on or before 31st May 2003, the Reward would be governed by the Reward Guidelines of 1985. However, the Committee competent to grant such Rewards would be that specified in para 5 below.

2.3 For searches carried out after 31st May 2003, Reward would be governed by the following conditions :

- (i) The minimum tax collected on the undisclosed income detected as a result of search and seizure operation and assessed to tax in the assessments referred to in para 2.1 above should be as under.

S. No.	DIT(Inv.) conducting the search	Tax collected (in Rs lakh)
1	Delhi and Mumbai	150
2	Ahmadabad, Bangalore, Chennai, Hyderabad, Pune and Kolkata	100
3	Others	75

- (ii) The total amount eligible for reward in a Group of cases would be upto 5% of the tax collected on the undisclosed income

detected as a result of search and seizure operation and assessed to tax in the assessments referred to in para 2.1, subject to an overall limit of Rs. 50 lakhs.

(iii) The amount on which such tax is collected has achieved finality in the appellate and/or revisionary proceedings.

2.4 The ratio of distribution of reward so sanctioned would be 40% to the team processing the search, 30% to the search teams and 30% to the Assessing Unit which has completed the assessments referred to in para 2.1, subject to the monetary ceiling mentioned in para 5.2 below. The Reward proposal for the Group shall be processed and decided simultaneously for all the three teams - the processing team, the teams participating in the search action, and the Assessment Unit. However, if an officer/official is incidentally part of two or more teams, he would be eligible for reward from only one of the teams. The internal distribution of reward within the processing team and the search teams would be as under :

Rank	Processing team (%)	Search teams (%)
Additional/Joint CIT	40	-
DCIT/ACIT	30	40
ITO	15	25
ITIs	10	20
Officials below ITI	5	15

2.5 In case one or more levels was not involved in processing the search case or was not present in the search teams, no reward shall be given to such levels. The ratios for the other levels would, however, remain unchanged.

2.6 Reward to the Assessing Unit shall be distributed in accordance with the ratio and principles laid down in para 1.2 and 1.3 above. However, before granting reward to the Assessment Unit, the Committee should examine the original/special contribution made by the Assessing Officer and his team. After such examination, the Committee can consider reducing the ratio of the Assessment Unit and decide the quantum of reward accordingly. Further, the admissibility of reward to the jurisdictional Addl./Joint Commissioner of Income Tax, under whom the assessment is made, should be examined by the Committee, having regard to his special contribution made in such cases and thereafter the Committee can decide upon the percentage, otherwise earmarked for the Assessing Officer, which can be disbursed to the jurisdictional Addl./Joint Commissioner of Income Tax, subject to a maximum of 30%.

2.7 Rewards in respect of cases admitted before the Settlement Commission would be granted only to the processing team and the search teams, subject to the conditions referred to in para 2.3 and 2.4., after the order u/s 245D(4) is passed and taxes paid thereon. However, where the search and seizure assessment orders, referred to in para 2.1, are admitted before the Settlement Commission, the Assessment Unit would also be eligible for reward

3 Reward for undertaking Surveys u/s 133A of the IT Act

3.1 Surveys carried out u/s 133A of the IT Act have been serving as an important instrument to detect tax evasion. It has accordingly been decided that officers and officials who have carried out surveys u/s 133A of the IT Act and who have completed the assessments of such cases would be eligible for reward as under:

- (i) Minimum tax collected on the undisclosed income detected as a result of the survey in a Group of cases should be as under:
 - (a) For cases of Delhi and Mumbai - Rs.100 lakhs
 - (b) For Ahmedabad, Bangalore, Chennai, Hyderabad, Kolkata and Pune - Rs.75 lakhs.
 - (c) Other places - Rs. 50 lakhs.
- (ii) Assessment u/s 143(3)/147 under the IT Act for the relevant assessment years should have been completed and the undisclosed income, determined at the time of survey, should have been charged to tax.
- (iii) Tax on the undisclosed income detected has been paid.
- (iv) The undisclosed income detected during the course of survey and assessed to tax has achieved finality in the appellate proceedings and/or revisionary proceedings.

3.2 The total amount eligible for reward in a group of cases would be upto 5% of the total tax collected on the undisclosed income detected and assessed as a result of the survey in the Group, subject to an overall limit of Rs 50 lakh. The ratio of distribution of reward so sanctioned would be 40% to the team processing the survey, 30% to the survey teams and 30% to the Assessing Unit which has completed the assessments referred to in clause (ii) to para 3.1, subject to the monetary ceilings mentioned in para 5.2 below. However, if an officer/official is incidentally part of two or more teams, he would be eligible for reward from only one of the teams. The internal distribution within the processing team and the survey teams would be as under :

Rank	Processing team (%)	Survey teams (%)
Additional/Joint CIT	40	-
DCIT/ACIT/ITO	30	45
ITIs	20	35
Officials below ITI	10	20

3.3 Reward to the Assessing Unit of 30% shall be distributed in accordance with the ratio and principles laid down in para 1.2 and 1.3 above. However, before granting reward to the Assessment Unit, the Committee should examine the original/special contribution made by the Assessing Officer and his team. After such examination, the Committee can consider reducing the ratio of the Assessment Unit and decide the quantum of reward accordingly. Further, the admissibility of reward to the jurisdictional Addl./Joint Commissioner of Income Tax, under whom the assessment is made, should be examined by the Committee, having regard to his special contribution made in such cases and thereafter the Committee can decide upon the percentage, otherwise earmarked for the Assessing Officer, which can be disbursed to the jurisdictional Addl./Joint Commissioner of Income Tax, subject to a maximum of 30%.

3.4 For Surveys u/s 133 A carried out by the Investigation wing (other than those carried out along with the search and seizure action), the eligibility criterion and other conditions as mentioned in paras 3.1 to 3.3 above would apply.

3.5 Rewards in respect of cases admitted before the Settlement Commission would be granted only to the processing team and the survey teams, subject to the conditions referred to in para 3.1 and 3.2., after the order u/s 245D(4) is passed and taxes paid thereon. However, where the assessment orders, referred to in para 3.1, are admitted before the Settlement Commission, the Assessment Unit would also be eligible for reward

3.6 These guidelines shall apply to all surveys u/s 133A carried out on or after 1st April 2006.

4. Reward for best cases in Tribunal

4.1 Additional/Joint CIT(DR) would be eligible for reward for outstanding representation made before the Tribunal leading to the upholding of the Department's case by the Tribunal. To be eligible for reward, the minimum tax effect of the amount upheld by the Tribunal should be as per the limits mentioned in clause (vii) of para 1.1. The amount eligible for reward would be upto 1% of the tax effect on the

income upheld by the Tribunal, subject to the monetary ceiling mentioned in para 5.2 below. However, the Reward to the Departmental Representatives would be admissible only in cases where special contribution has been made by them, which has to be certified by the CCIT sending the proposal.

4.2 This Guideline shall apply to all cases represented before the Tribunal on or after 1st April, 2006. For the earlier period, the Reward Guidelines, 1985 shall apply. However, the Committee competent to grant Rewards for the earlier period would be that specified in para 5 below.

5. Committee for Sanctioning Reward

5.1 It has been decided that with effect from 1st May, 2007, and subject to para 7.1 below, all cases of Reward to officers/officials shall be decided by Committees consisting of senior officers of the Income Tax Department as under, which shall receive the Reward proposals from

S. No.	Nature of Reward proposal	Committee consisting of	Reward case to be processed in the office of
1.	Scrutiny cases (in respect of cases mentioned in para 1), other than those assessed in Central Charges	(i) Cadre Controlling Chief Commissioner (Chairman); (ii) the Director General of Income Tax (Inv.); and (iii) Chief Commissioner under whose jurisdiction the case is assessed or (if the Cadre Controlling Chief Commissioner is also the jurisdictional Chief Commissioner of Income Tax) a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner. Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	Jurisdictional Cadre Controlling Chief Commissioner of Income Tax.
2	Scrutiny cases in Central Charges (in respect of cases	(i) Director General of Income Tax (Investigation) (Chairman); (ii) Cadre Controlling Chief Commissioner of Income Tax; and (iii) in case of Delhi and Mumbai, the Chief Commissioner	Jurisdictional Director General of Income Tax (Investigation)

	mentioned in para 1)	of Income Tax (Central) or, in case of other Regions, a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner of Income Tax. Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	or, in case of Delhi and Mumbai, the Chief Commissioner of Income Tax (Central).
3.	Search and Seizure cases (in respect of cases mentioned in para 2)	(i) Director General of Income Tax (Investigation) (Chairman); (ii) Cadre Controlling Chief Commissioner of Income Tax; and (iii) In case of Delhi and Mumbai, the Chief Commissioner of Income Tax (Central) while for other cities, a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner of Income Tax. Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	Jurisdictional Director General of Income Tax (Investigation).
4.	Surveys carried out by Commissionerates (in respect of cases mentioned in para 3)	(i) Cadre Controlling Chief Commissioner (Chairman); (ii) the Director General of Income Tax (Inv.); and (iii) Chief Commissioner under whose jurisdiction the case is assessed or a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner (if the Cadre Controlling Chief Commissioner is also the jurisdictional Chief Commissioner of Income Tax). Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	Jurisdictional Cadre Controlling Chief Commissioner of Income Tax.

5.	Surveys carried out by Investigation wing (in respect of cases mentioned in para 3)	(i) Director General of Income Tax (Investigation) (Chairman); (ii) Cadre Controlling Chief Commissioner of Income Tax; and (iii) the Chief Commissioner of Income Tax under whose jurisdiction the case is assessed, or a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner of Income Tax (if the Cadre Controlling Chief Commissioner/DGIT(Inv.) is also the jurisdictional Chief Commissioner of Income Tax). Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	Jurisdictional Director General of Income Tax (Investigation) concerned.
6.	Best cases in Tribunal (in respect of cases mentioned in para 4)	(i) Cadre Controlling Chief Commissioner (Chairman); (ii) the Director General of Income Tax (Inv.); and (iii) Chief Commissioner under whose jurisdiction the Departmental Representative is working or a Chief Commissioner of that Region as nominated by the Cadre Controlling Chief Commissioner (if the Cadre Controlling Chief Commissioner is the supervisory authority of the Departmental Representative). Where, in a Region, there is no other Chief Commissioner, the Commissioner of Income Tax under whose jurisdiction the case(s) is assessed would be nominated as the Third Member. In the case of disagreement, majority decision will prevail.	Jurisdictional Cadre Controlling Chief Commissioner of Income Tax concerned.

the DGIT/CCIT concerned in the check lists as per **Annexure A to D** enclosed.

5.2 The maximum of reward which an officer or an official can be sanctioned by the Committee in a case, or a group of cases, as the case may be, would be as under, subject to an overall limit of Rs 15 lakhs in the entire career of an officer/official :

Sr.No.	Rank of Officer/official	Maximum reward (in Rs)
1	Addl./Joint CIT	2.00 lakh
2	DCIT/ACIT	1.50 lakh
3	ITO	1.00 lakh
4	ITI	50,000
5	Official below ITI	30,000

5.3 For the purposes of processing the reward proposals, the Addl./ Joint CIT/DIT(Inv.), working in the Headquarters of the Chairman of the respective Committees, shall function as the Member-Secretary of the Committee. The Member-Secretary shall process all reward cases received upto 25th of every month and put up, by the 7th of the following month, for consideration of the Committee. Proposals received after 25th shall be processed in the immediately succeeding month. The Committee, shall, thereupon meet and draw up a Minutes of its decisions and convey the same to the authorities concerned. Objections, if any, to a reward proposal should also form part of the Minutes and communicated to the DGIT/CCIT (from whom the proposal has been received). The Committee shall endorse all Reward sanction orders to Member (Investigation), CBDT for information and record. Reward shall be disbursed from the office of the Chairman of the Reward Committee within three months of sanction order and after obtaining Vigilance Clearance, in respect of the officers/officials, from the concerned authorities.

5.4 The Reward so sanctioned would be exempt from Income Tax. It will be purely an ex-gratia payment and cannot be claimed as a matter of right. The reward to the officer/official shall be disbursed only on an undertaking given by the officer/official (to whom it is sanctioned) that the decision of the Committee would not be agitated or challenged before any authority or Court of law.

6. Stage of grant of Reward

6.1 Reward to officers/officials under paras 1 to 3 of this Guideline shall be granted as under :

- (a) Where no appeal has been preferred against the assessment orders, reward may be granted after one year from the end of the year in which the relevant assessment order (s) was passed.
- (b) Where the assessment order is a subject matter of appeal, the reward would be sanctioned only after all appeals are finalised.
- (c) Where the case is before the Settlement Commission, the reward

shall be payable after the order u/s 245D(4) has been received and the tax thereon has been paid.

7. Matters to be decided by the Board

7.1 Normally, all reward matters for officers/officials shall be decided by the Committees referred to in para 5 above. However, Committees may send proposal to Member (Inv.) for grant of reward, in respect of work done on or after 1st April, 2006, in special cases (such as TDS cases, recovery cases, intelligence gathering, orders passed by Transfer Pricing Officers, etc.) involving outstanding work done by an officer/official in a case or a group of cases which is not covered by the above Guidelines, but deserves to be recognized by way of a monetary reward. Such proposals shall be decided by the Member (Inv.), CBDT. Further, Member (Inv.), CBDT shall have residual powers for grant of rewards.

(D Srinivas)
Director, Government of India
Telefax : 2309 2616

Copy to :

- 1 Chairman, CBDT
- 2 All Members, CBDT
- 3 All Joint Secretaries/Commissioners of Income Tax in CBDT
- 4 All Directors/Dy. Secretaries/Under Secretaries in CBDT
- 5 Guard File

ANNEXURE - A

Check List for reward in scrutiny cases (referred to in para 1 of Revised Reward Guidelines) : to be submitted by the jurisdictional CCIT/DGIT to the Reward Committee

Designation of the jurisdictional CCIT/DGIT proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted :

Date of submission of the proposal :

Details of the reward proposal

S. No.	Details of the proposal	Remarks
A.	Details of the case	
1	Name of the case	
2	Assessment Year	
3	Status of the case (corporate/non-corporate)	
4	Section under which order is passed	
5	Returned income	
6	Assessed Income	
7	Date of order	
8	City where the case has been assessed	
B.	Nature of additions made	
9	Brief note on original enquiry/investigation done by the Assessing Officer and the additions made (use separate sheet)	
10	Whether additions on similar issues have been made in earlier assessment years? if so, details thereof	
11	Whether additions are based on any information/report/order received from any other person/authority? If so, details thereof.	
12	Whether additions made are in consequence of or give effect to any court order in any other case or to give effect to any retrospective amendment of law?	
13	Whether additions have resulted only in reduction of losses?	
C.	Appellate/revisionary proceedings	
14	Whether revisionary proceedings are pending? If yes, date of finalization of the proceeding.	

15	Whether first appeal has been filed? (a) If not, has one year from the month of assessment order expired? (b) If yes, has the first appeal been finalized?	
16	If answer to 15(b) above is yes, has second appeal been preferred (either by Department or by the assessee)	
17	Date of order of ITAT	
18	Whether further appeal filed before High Court/Supreme Court	
19	Date of order of High Court/Supreme Court	
20	Income determined after giving effect to appeal/revision orders	
D.	Tax effect of addition	
21	Tax effect of the additions qualifying for reward after finalization of all appellate/revisionary proceedings	
22	(a) Amount of taxes paid out of (21) above (attach audit certificate) (b) Whether 22(a) is above the amount specified in para 1.1(vii) of the Revised Guideline)	
E.	Quantum of Reward proposed	
23	2% of the amount referred to in (22) above (restricted to Rs 50 lakhs)	
24	Amount out of (23) above proposed for reward. Give justification if amount equals that in (23) above.	
G.	Distribution of reward (refer paras 1.2 and 1.3 of the Revised Guidelines)	
25	Whether Range Head qualifies for reward under para 1.3 of the Revised Guideline? If yes, briefly mention his contribution.	
26	Whether the ITIs working under the Assessing Officer qualify for reward? If yes, briefly mention their contribution	
27	Whether the officials (other than ITIs) working under the Assessing Officer qualify for reward? If yes, briefly mention their contribution	
28	(In view of 24-27 above), quantum of Reward, out of (24) above, proposed* for : (a) Range Head (b) Assessing Officer (c) ITIs (d) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
H.	Officers/officials proposed for reward	
29	Name and designation of Range Head	

30	Name and Designation of the Assessing Officer	
31	Name(s) of the ITIs	
32	Name(s) of officials, other than ITIs	
I.	Any other remark which the CCIT/DGIT(Inv.) may like to give	

Certified that the above information is correct as per records

(Signature, Name and Designation of the jurisdictional CCIT/DGIT proposing the reward)

ANNEXURE - B**Check List for reward in search and seizure cases (referred to in para 2 of Revised Reward Guidelines) : to be submitted by the jurisdictional DGIT(Inv.) to the Reward Committee**

Designation of the jurisdictional DGIT (Inv.) proposing the reward :

Designation of the Chairman of the Reward Committee to whom the proposal is submitted :

Date of submission of the proposal :

Details of the reward proposal

S. No.	Details of the proposal	Remarks
A.	Details of the case	
1	Name of the Group searched	
2	Assessment Years involved	
3	Date of search	
4	Section under which orders have been passed	
5	Date of order(s) under Section 153A/153C/143(3)	
6	DIT(Inv.) conducting the search	
B.	Undisclosed Income detected	
7	Income assessed/re-assessed under sections 153A/153C/143(3) (use separate sheet)	
8	Amount of undisclosed income in (7) above which is relatable to the search and seizure operation	
9	Tax effect of amount referred to in (8) above	
C.	Appellate/revisionary/Settlement Commission proceedings	
10	Whether revisionary proceedings are pending? If yes, date of finalization of the proceeding.	
11	Whether first appeal has been filed? (a) If not, has one year from the month of assessment order expired? (b) If yes, has the first appeal been finalized?	
12	If answer to 11(b) is yes, has second appeal/further appeal to Courts been preferred (either by Department or by the assessee)	
13	Date of order(s) of appeals referred to in (12) above	

14	Date of order, if any u/s 245D(4) by the Settlement Commission	
D.	Tax effect of addition	
14A	Tax effect of the amount referred to in (9) above sustained in appellate/revisionary proceedings; or Tax payable determined by the Settlement Commission u/s 254D(4)	
15	(a) Amount of taxes paid out of (14A) above (attach audit certificate) (b) Whether 15(a) is above the amount specified in para 2.3(i) of the Revised Guideline?	
E.	Quantum of Reward proposed	
16	5% of the amount referred to in (15) above (restricted to Rs 50 lakhs)	
17	Amount out of (16) above proposed for reward. Give justification if amount equals that in (16) above.	
G.	Distribution of reward (refer paras 3.2 to 3.5 of the Revised Guidelines)	
18	Amount of reward proposed for the team processing the search	
19	Internal Distribution of reward proposed* for the processing team (also mention name and designation): (a) Addl./Jt. CIT : (b) DCIT/ACIT/ITO: (c) ITIs : (d) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
19A	Amount of reward proposed for the teams conducting the search (internal distribution to be worked out by O/o Chairman of the Reward Committee after sanction of reward)	
20	Amount of reward proposed for the Assessing Unit	
21	Internal distribution of reward proposed* for the Assessing Unit (also mention name and designation): (a) Range Head (b) Assessing Officer (c) ITIs (d)officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
H.	Any other remarks which the DGIT(Inv.) may like to give :	

Certified that the above information is correct as per records

(Signature, Name and Designation of the jurisdictional DGIT(Inv.) recommending the reward)

ANNEXURE - C**Check List for reward in survey cases (referred to in para 3 of Revised Reward Guidelines) : to be submitted by the jurisdictional CCIT/DGIT to the Reward Committee**

Designation of the jurisdictional CCIT/DGIT (Inv.) proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted :

Date of submission of the proposal :

Details of the reward proposal

S. No.	Details of the proposal	Remarks
A.	Details of the case	
1	Name of the Group surveyed	
2	Assessment Years involved	
3	Date of survey	
4	Section under which orders have been passed	
5	Date of order(s)	
6	City where the main case(s) of the Group is/are assessed	
B.	Undisclosed Income detected	
7	Income assessed/re-assessed under sections 143(3)/147 (use separate sheet)	
8	Amount of undisclosed income in (7) above which is relatable to the survey operation	
9	Tax effect of amount referred to in (8) above	
C.	Appellate/revisionary/Settlement Commission proceedings	
10	Whether revisionary proceedings are pending? If yes, date of finalization of the proceeding.	
11	Whether first appeal has been filed? (a) If not, has one year from the month of assessment order expired? (b) If yes, has the first appeal been finalized?	
12	If answer to 11(b) is yes, has second appeal/further appeal to Courts been preferred (either by Department or by the assessee)	
13	Date of order(s) of appeals referred to in (12) above	
14	Date of order, if any u/s 245D(4) by the Settlement Commission	

D.	Tax effect of addition	
14A	Tax effect of the amount referred to in (9) above sustained in appellate/revisionary proceedings; or Tax payable determined by the Settlement Commission u/s 254D(4)	
15	(a) Amount of taxes paid out of (14A) above (attach audit certificate) (b) Whether 15(a) is above the amount specified in para 3.1(i) of the Revised Guideline?	
E.	Quantum of Reward proposed	
16.	5% of the amount referred to in (15) above (restricted to Rs 50 lakhs)	
17	Amount out of (16) above proposed for reward. Give justification if amount equals that in (16) above.	
G.	Distribution of reward (refer paras 2.4 to 2.7 of the Revised Guidelines)	
18	Amount of reward proposed for the team processing the survey	
19	Internal Distribution of reward proposed* for the processing team (also mention name and designation): (c) Addl./Jt. DIT(Inv.) : (d) DDIT/ADIT(Inv.) : (e) ITO(Inv.) : (f) ITIs : (g) officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
19A	Amount of reward proposed for the teams conducting the survey (Internal distribution to be worked out by DGIT(Inv.) after sanction of reward)	
20	Amount of reward proposed for the Assessing Unit	
21	Internal distribution of reward proposed* for the Assessing Unit (also mention name and designation): (a) Range Head (b) Assessing Officer (c) ITIs (d)officials other than ITIs * restricted to amounts specified in para 5.2 of the Revised Guideline	
H.	Any other remarks which the CCIT/DGIT(Inv.) may like to give	

Certified that the above information is correct as per records

(Signature, Name and Designation of the jurisdictional CCIT/DGIT recommending the reward)

ANNEXURE - D**Check List for reward for best cases in Tribunal (referred to in para 4 of Revised Reward Guidelines) : to be submitted by the jurisdictional CCIT to the Reward Committee**

Designation of the jurisdictional CCIT proposing the reward:

Designation of the Chairman of the Reward Committee to whom the proposal is submitted :

Date of submission of the proposal :

Details of the reward proposal

S. No.	Details of the proposal	Remarks
1	Name of the case	
2	Assessment Year(s)	
3	Status of the case (corporate/non-corporate)	
4	Section under which assessment order was originally passed	
5	Income upheld in second appeal	
6	Break-up of income upheld by ITAT (a) Income sustained in first appeal : (b) Income deleted in first appeal :	
7	Tax effect of the Income upheld in second appeal	
8	Date of order of ITAT	
9	Special contribution made by the DR, esp. in respect of 6(b) above (use separate sheet)	
10	Name and Designation of the DR	
11	Whether taxes have been paid (Attach Audit certificate)	
12	1% of the tax effect of the amount upheld in ITAT attributable to the special efforts made by the DR	
13	Amount of reward proposed (restricted to amounts specified in para 5.2); give justification if amount equals that at (12) above	
14	Any other remarks which the CCIT may like to give	

Certified that the above information is correct as per records

(Signature, Name and Designation of the jurisdictional CCIT proposing the reward)



**DIRECTORATE OF INCOME-TAX (PR, PP & OL)
MAYUR BHAWAN, NEW DELHI-110001**