

32 Rights/Duties of Tax Payers during Search, Seizure & Survey

Indian Income tax procedure is mainly based on Self Assessment System. Normally an assessee pays the tax to Income Tax Department after calculating the Income Tax on his income earned. Afterwards, he provides the information about his income & payment of Income Tax to the Income Tax Department by filing of the Income Tax return. Income Tax Officials check these returns randomly.

Readers are advised to file the returns either by themselves or with the help of consultants before the due date, every year. If they come under the criteria of filing of returns they should not forget to maintain proper accounts, so that they can provide the facts & figures to the officials of IT Dept. as & when required.

Income Tax Surveys are of three types:

(1) Normal Survey: Under section 133B, survey is being conducted for making new tax payers by moving around house to house & shop to shop. The information is collected in *Form No. 45 D*. If the persons are already filing the return, then they have to mention their names, address & Pan No. etc in the prescribed columns. While doing the survey Income Tax official can enter into any commercial establishment & can also ask the person present to fill up the *Form No. 45 D*, but he cannot demand for account ledger for checking. If a person fails to submit the desired information in *Form No. 45 D* even after receiving a notice from Income Tax Department, then he can be penalised under Sections 272AA for Rs.1,000. Assessee has the power to ask the survey officer about his Identity Card & if needed he can call his legal consultant to be present during the survey under section 22(1).

(2) Survey of expenses occurred on marriage parties: Under Section 133A (5), survey can be conducted to collect the information regarding expenses of marriage & parties. The Income Tax officer has the power to ask the assessee or other persons the details related to marriage or parties. He can record the statement without giving any threat etc. Assessee has also the right to take a true copy of the recorded statement.

(3) Special Survey: Under Section 133 A (1), detailed survey can be conducted of the commercial establishments of a particular assessee. In this survey, the officer can enter into the commercial premises during the business hours only. Once the survey has started then it can continue after the business hours also at other places where accounts cash or stock could have been kept. The survey can start after sunrise & before sunset. But after start it can continue after sunset also. Income Tax Officials cannot remove or seize the stock, cash or other valuable goods but can evaluate the things. Premises cannot be sealed during the survey.

It is the moral responsibility of assessee to give full support to the investigating officer. For Non-Corporation, penalty of Rs. 10,000 can be imposed under section 272 A (1). During the survey itself, Assessee can declare his income & it will depend on the nature of the case to see if penalty be imposed or not?

