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Lb. B. Part III rd  
Paper - VIII th (Taxation)

### Compulsory Best Judgment Assessment. (S.144)

Condition: - In the following cases, the S.T.O. is bound to make best judgment assessment:-

(1) Where the assessee has failed to make the return required under S.139(1) and has not made a return under Section 139(4) or a revised return under Section 139(5) the Assessing Officer is bound to make the best judgment assessment.

(2) Where assessee has failed to comply with all the (returns) terms of a notice issued under section 142(1) requiring the assessee to produce accounts or other documents or information specified in the notice, the Assessing Officer is bound to make the best judgment assessment. In this respect of the following points should be noted: (i) The notice must be valid (ii) The best judgment on the ground of non-compliance of notice



(2)

can be made if the assessee fails to comply with all the terms of such notice i.e., the best judgment assessment cannot be made on this ground if there has been substantial compliance with notice (ii) It is for the Assessing Officer to determine what account books and documents are necessary for the purpose of assessment and therefore the best judgment assessment under this section cannot be held to be invalid merely because some of the accounts required to be produced but not produced were, in the opinion of the assessee irrelevant.

(3) Where the assessee has failed to comply with Assessing Officer's direction for getting the accounts audited by an accountant nominated by the Chief Commissioner or Commissioner furnished the audit report, the Assessing Officer shall make the best judgment assessment.

(4) Where the assessee has furnished the return and the Assessing Officer serves a notice upon the assessee under Section 143(2) requiring him to attend at the Assessing Officer's



(3)

office or to produce evidence in support of his return but the assessee does not comply with all the terms of this notice, the least judgment shall be made by the Assessing Officer. The least judgment assessment under this section should be made only when the assessee has failed to comply with all the terms of notice. Thus, the least judgment assessment under this section cannot be made if there has been substantial compliance with the notice. On this point it is to be noted that if the return furnished is not accepted by the Assessing Officer as correct and complete, the Assessing Officer must serve a notice on the assessee requiring him to attend at the Assessing Officer's office or to produce evidence in support of his return.

In any of the above conditions the Assessing Officer is bound to make least judgment assessment. He is required to make such assessment after taking into account all relevant materials which he has gathered and after giving the assessee an opportunity of being heard. However, it shall not be necessary to give such opportunity in a case where a notice



(\*) (4)

under section 142 (1) has been issued prior to the making of an assessment under this section. The provisions of Section 144 as they stood immediately before their amendment by the D.T. Act, 1987 shall apply to and in relation to any assessment year commencing on 1-4-88 or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as reference to those provisions as for the time being in force and applicable to the relevant assessment year.

In the case of such assessment, the assessee can file appeal against it to the Commissioner (Appeal) under section 246 A or Application to the Commissioner (Appeals) under section 24A or / application to the Commissioner under section 64 for revision.