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Page No. _____
Date _____

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L.B. Part IIIrd
Paper - VIIIth
Taxation

Assessment in cases of diversion of property or of income from property, held under trust for public charitable and religious purposes [S. 21A]

Notwithstanding anything contained in clause (i) of Section 5 where any property is held under trust for any public purpose of a charitable or religious nature in India and —

- (i) any part of such property of any income of such trust, or
- (ii) any part of the income of the trust (whether derived from such property or from such voluntary contribution referred to in sub-clause (ia) of clause 24 of Section 2 of the Income Tax Act being a trust created on or after the 1st day of April 1962 in pursuance directly or indirectly, for the benefit of any person referred in sub-section (3) of Section 13 of the Income Tax Act), or
- (iii) any funds of the trust are

(2)

invested or deposited, or any shares in a company are held by the trust in contravention of the provisions of clause (d) of sub-section (1) of Section 13 of the Income-tax Act.

Wealth-tax shall be leviable upon and recoverable from the trustee or manager in the like manner and to the same extent as if the property were held by an individual who is a citizen of the India for the purposes of this Act.

It is to be noted that in the case of a trust created before the 1st day of April 1962 the provisions of the clause (i) shall not apply to any use or application, whether directly or indirectly, of any part of such property or any income of such trust for the benefit of any person referred to in sub-section (3) of Section 13 of the Income-tax Act, if such use or application is by way of compliance with a mandatory term of the trust.

In the case of any association referred to in clause 2(3)(a) of the Income-tax Act —

(i) the provisions of clause (i) and clause (ii) shall not apply and;

(ii) the other provisions of this section shall apply, with the modification that —

(1) for the words, brackets, letters

(3)

and figures "in contravention of the provisions of clause (d) of sub-section (1) of S. 13 of the Income-tax Act," the words "brackets and figures" in contravention of the provisions contained in the proviso to clause 21 of S. 10 of the Income-tax Act," had been substituted; and

(2) for the words "at the maximum marginal rate," the words and figures at the rates specified in sub-section (2) of S. 2 had been substituted.

In the case of any institution fund or trust referred to in clause 22 or clause 22-A or clause 23-B or clause 23-C of S. 10 of the Income-tax Act, the provisions of clause (i) to (iii) shall not apply.

For the purposes of this section, any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act in every case in which it can be so deemed to have been used or applied within the meaning of clause (i) of sub-section (1) of that section at any time during the period of twelve months ending with the relevant valuation date.