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Section 315 - Assessment after partition of Hindu undivided family.

(1) A Hindu family, hitherto assessed as undivided, shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(2) Where, at the time of making an assessment under section 270 or section 271, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Assessing Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(3) On the completion of the inquiry, the Assessing Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place during the tax year,—

(a) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(b) each member or group of members shall, in addition to any tax for which he or it may be separately liable and irrespective of anything contained against Schedule III (Table: Sl. No. 1), be jointly and severally liable for the tax on the income so assessed.

(5) Where a finding of total or partial partition has been recorded by the Assessing Officer under this section, and the partition took place after the expiry of the tax year, the total income of the tax year of the joint family shall be assessed as if no partition had taken place, and the provisions of sub-section (4)(b), shall so far as may be, apply to the case.

(6) Irrespective of anything contained in this section, if the Assessing Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(7) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

(8) Irrespective of anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

(a) a claim that such partial partition has taken place shall not be inquired into under sub-section (2) and no finding shall be recorded under sub-section (3) that such partial partition had taken place and any finding recorded under sub-section (3) to that effect at any time, shall be *null* and *void*;

(b) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place; and

(c) each member or group of members of such family immediately before such partial partition and the

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family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition.

(9) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial and the provisions of this Act shall apply accordingly.

(10) For the purposes of this section,—

(a) “partition” means,—

(i) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(ii) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(b) “partial partition” means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

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