
Rule - 112 , Income-tax Rules, 1962

⁷⁴ Search and seizure.

112. (1) The powers of search and seizure under section 132 shall be exercised in accordance with sub-rules (2) to ⁷⁵[(14)].

⁷⁶[(2) (a) The authorisation under sub-section (1) of section 132 (other than an authorisation under the proviso thereto) by the ⁷⁷[Director-General or Director] or the ⁷⁸[Chief Commissioner or Commissioner] or any such ⁷⁹[Deputy Director] or ⁸⁰[Deputy Commissioner] as is empowered by the Board in this behalf shall be in Form No. 45;

(b) the authorisation under the proviso to sub-section (1) of section 132 by a ⁷⁸[Chief Commissioner or Commissioner] shall be in Form No. 45A;

(c) the authorisation under sub-section (1A) of section 132 by a ⁷⁸[Chief Commissioner or Commissioner] shall be in Form No. 45B.

(2A) Every authorisation referred to in sub-rule (2) shall be in writing under the signature of the officer issuing the authorisation and shall bear his seal.

(3) Any person in charge of or in any building, place, vessel, vehicle or aircraft authorised to be searched shall, on demand by the officer, authorised to exercise the powers of search and seizure under section 132 (hereinafter referred to as the authorised officer) and on production of the authority, allow him free ingress thereto and afford all reasonable facilities for a search therein.]

(4) If ingress into such building or place cannot be so obtained it shall be lawful for ⁸¹[the authorised officer] executing the authority, with such assistance of police officers ⁸²[or of officers of the Central Government, or of both,] as may be required, to enter such building or place and search therein and in order to effect an entrance into such building or place, to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that, if any such building or place is an apartment in actual occupancy of a woman, who according to custom does not appear in public, ⁸¹[the authorised officer] shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

⁸³[(4A) If ingress into any vessel, vehicle or aircraft authorised to be searched cannot be obtained because such vessel, vehicle or aircraft is moving or for any other reason, it shall be lawful for the authorised officer with such assistance of police officers or of officers of the Central Government, or of both, as may be required, to stop any such vessel or vehicle or, in the case of an aircraft, compel it to stop or land, and search any part of the vessel, vehicle or aircraft; and in order to effect an entrance into such vessel, vehicle or aircraft, to break open any outer or inner door or window of any such vessel, vehicle or aircraft, whether that of the person to be searched or of any other person, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that if any such vessel, vehicle or aircraft is occupied by a woman, who according to custom does not appear in public, the authorised officer shall, before entering such vessel, vehicle or aircraft, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.]

⁸⁴[(4B)] ⁸⁵[The authorised officer] may require any person who is the owner, or has the immediate possession, or control, of any box, locker, safe, almirah or any other receptacle situate in such ⁸⁶[building, place, vessel, vehicle or aircraft], to open the same and allow access to inspect or examine its contents, and, where the keys thereof are not available or where such person fails to comply with any such requirement, may cause any action to be taken including the breaking open of such box, locker, safe, almirah or other receptacle which

⁸⁷[the authorised officer] may deem necessary for carrying out all or any of the purposes specified in the authority issued under sub-rule (2).

⁸⁴[(4C)] ⁸⁵[The authorised officer] may, where it is not practicable to seize the money, bullion, jewellery or other valuable article or thing or any books of account or document, serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of ⁸⁷[the authorised officer], who may take such steps as may be necessary for ensuring compliance with this sub-rule.

⁸⁸[(5) Any person referred to in clause (iia) of sub-section (1) of section 132 may be searched by the authorised officer with such assistance as he may consider necessary. If such person is a woman, the search shall be made by another woman with a strict regard to decency.]

⁸⁸[(6) Before making a search, the authorised officer shall,—

- (a) where a building or place is to be searched, call upon two or more respectable inhabitants of the locality in which the building or place to be searched is situate, and
- (b) where a vessel, vehicle or aircraft is to be searched, call upon any two or more respectable persons, to attend and witness the search and may issue an order in writing to them or any of them so to do.]

(7) The search shall be made in the presence, of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by ⁸⁹[the authorised officer] and signed by such witnesses; but no person witnessing a search shall be required to attend as a witness of the search in any proceedings under ⁹⁰[the Indian Income-tax Act, 1922 (11 of 1922), or] the Act unless specially summoned.

⁹¹[(8) The occupant of the building, place, vessel, vehicle or aircraft searched, including the person in charge of such vessel, vehicle or aircraft, or some person on his behalf, shall be permitted to attend during the search and a copy of the list prepared under sub-rule (7) shall be delivered to such occupant or person. A copy thereof shall be forwarded to the ⁹²[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the ⁹²[Chief Commissioner or Commissioner], also to that officer.]

⁹³[(9) Where any person is searched under clause (iia) of sub-section (1) of section 132, a list of all things taken possession of shall be prepared and a copy thereof shall be delivered to such person. A copy thereof shall be forwarded to the ⁹²[Chief Commissioner or Commissioner], and, where the authorisation has been issued by any officer other than the ⁹²[Chief Commissioner or Commissioner], also to that officer.]

⁹⁴[(10) ⁹⁵[The authorised officer] shall place or cause to be placed the bullion, jewellery and other valuable articles and things seized during the search in a package or packages which shall be listed with details of the bullion, jewellery and other valuable articles and things placed therein; every such package shall bear an identification mark and the seal of ⁹⁶[the authorised officer or any other income-tax authority] not below the rank of Income-tax Officer and ⁹⁷[the occupant of the building, place, vessel, vehicle or aircraft, including the person in charge of such vessel, vehicle or aircraft, searched] or any other person in his behalf shall also be permitted to place his seal on them. A copy of the list prepared shall be delivered to such occupant or person. A copy shall be forwarded to the ⁹⁸[Chief Commissioner or Commissioner] ⁹⁹[and where the authorisation has been issued by any officer other than the ⁹⁸[Chief Commissioner or Commissioner], also to that officer].]

¹[²[(11)] ³[The authorised officer] may convey the books of account and other documents, if any, seized by him in the course of the search made by him and the package or packages, if any, referred to in sub-rule (10) to the office of any income-tax authority not below the rank of Income-tax Officer (hereinafter referred to as the Custodian). Any money seized in the search referred to above may also be deposited with the Custodian.]

⁴[(12)(i) The Custodian shall take such steps as he may consider necessary for the safe custody of—

- (a) books of account and other documents, and
- (b) the package or packages, conveyed to him.

(ii) The Custodian may deposit for safe custody all or any of the packages with any branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries ⁵[or the authorised bank] or a Government Treasury.

(iii) Where any money has been deposited with the Custodian, he may credit the money, or remit the money through the nearest ⁶[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] ⁷[* * *] for being credited, in the Personal Deposit Account of the ⁸[Chief Commissioner or Commissioner] in the ⁹[branch of the Reserve Bank of India or the State Bank of India or of its subsidiaries or any authorised bank] at the place where the office of the ⁸[Chief Commissioner or Commissioner] is situate.]

¹⁰[(13) (i) Whenever any sealed package is required to be opened for any of the purposes of the Act, ¹¹[the authorised officer] may, unless he is himself the Custodian, requisition the same from the Custodian and on receipt of the requisition, such package or packages, as the case may be, shall be delivered to him by the Custodian. ¹²[The authorised officer] may break any seal and open such package in the presence of two respectable witnesses after giving a reasonable notice to the person from whose custody the contents were seized to be present.

(ii) Such person shall be permitted to be present till all or any of the contents of such package are placed in a fresh package or packages and sealed in the manner specified in sub-rule (1) or delivered to such person or the Custodian, as the case may be.]

¹³[(14) The ¹⁴[Assessing Officer] to whom the books of account or other documents or assets have been handed over under sub-section (9A) of section 132 shall have all the powers conferred on the authorised officer under sub-rules (11) and (13).]

-
74. See Instruction No. 7/2003, dated 30-7-2003 (matters relating to search and seizure). Section 132 and rule 112 are not violative of articles 14 and 19(1)(f) of the Constitution - *Pooran Mal v. Director of Inspection (Investigation)* [1974] 93 ITR 505 (SC)/*Jain & Jain v. Union of India* [1982] 134 ITR 655 (Bom.). Immovable property cannot be subject of seizure - *Sardar Parduman Singh v. Union of India* [1987] 166 ITR 115 (Delhi)/*M.K. Gabriel Babu v. Asstt. Director of Income-tax* [1990] 186 ITR 435 (Ker.)/*CIT v. M.K. Gabriel Babu* [1991] 188 ITR 464 (Ker.). Fixed deposit receipts/titles cannot be treated as 'valuable article or thing' - *Bhagwandas Narayandas v. CIT* [1975] 98 ITR 194 (Guj.). Keeping police officers during search of premises of influential persons will not amount to use of excessive force - *ITO v. Seth Bros.* [1969] 74 ITR 836 (SC). In the absence of any allegation of use of force or excessive force, no exception can be taken to the presence of police personnel - *Subir Roy v. S.K. Chattopadhyay* [1986] 158 ITR 472 (Cal.). The emphasis in a search is on the independent character of witnesses and not on the locality they come from - *Sunder Singh v. State of UP* AIR 1956 SC 411/*Hanuman Traders v. CTO* [1982] 51 STC 76 (Kar.). For details, see Taxmann's Master Guide to Income-tax Rules.
75. Substituted for "(11)" by the IT (Second Amdt.) Rules, 1965. Earlier "(11)" was substituted for "(10)" by the IT (Third Amdt.) Rules, 1964.
76. Substituted for sub-rules (2) and (3) by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975. Sub-rule (2) was first substituted by the IT (Third Amdt.) Rules, 1964 and later amended by the IT (Amdt.)/(Second Amdt.)/(Fifth Amdt.) Rules, 1965.
77. Substituted for "Director of Inspection" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
78. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
79. Substituted for "Deputy Director of Inspection" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
80. Substituted for "Inspecting Assistant Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
81. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.
82. Inserted by the IT (Second Amdt.) Rules, 1965.
83. Inserted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
84. Inserted by the IT (Second Amdt.) Rules, 1965, as sub-rules (4A) and (4B) respectively, and were later renumbered as sub-rules (4B) and (4C) by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.

85. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
86. Substituted for "building or place" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
87. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
88. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
89. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1965.
90. Inserted by the IT (Third Amdt.) Rules, 1964.
91. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
92. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
93. Substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
94. Inserted by the IT (Third Amdt.) Rules, 1964 and later substituted by the IT (Second Amdt.) Rules, 1965.
95. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
96. Substituted for "the Inspecting Assistant Commissioner or any other income-tax authority" by the IT (Fifth Amdt.) Rules, 1965.
97. Substituted for "the occupant of the building or place searched" by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
98. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
99. Substituted for "and also to the Director of Inspection where the authorisation under sub-rule (2) has been issued by him" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
1. Substituted by the IT (Second Amdt.) Rules, 1965.
2. Renumbered by the IT (Third Amdt.) Rules, 1964.
3. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
4. Inserted by the IT (Second Amdt.) Rules, 1965.
5. Inserted by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
6. Substituted for "Government Treasury" by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
7. Words "free of charge" omitted by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
8. Substituted for "Commissioner" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.
9. Substituted for "Government Treasury" by the IT (Sixth Amdt.) Rules, 1981, w.e.f. 19-6-1981.
10. Inserted by the IT (Second Amdt.) Rules, 1965.
11. Substituted for "the Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
12. Substituted for "The Inspecting Assistant Commissioner or the Income-tax Officer, as the case may be," by the IT (Fifth Amdt.) Rules, 1965.
13. Inserted by the IT (Second Amdt.) Rules, 1965 and was later substituted by the IT (Fourth Amdt.) Rules, 1975, w.e.f. 1-10-1975.
14. Substituted for "Income-tax Officer" by the IT (Fifth Amdt.) Rules, 1989, w.r.e.f. 1-4-1988.