



## **Income Tax Act 2025 (ITA'25) Vs Income Tax Act 1961 (ITA'61) Series**

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**Can “Cloud Data” incase of Income Tax Act 2025 (ITA'25) be considered ‘books’ ...  
If Loose papers incase of Survey/ Search or Seizure are incriminating evidence when tallied to Books, under Income Tax Act 1961 (ITA'61)**

Section 158B(b) of ITA'61 defines Undisclosed Income refers to not only assets found but also income based on entry in books of account or other documents or transactions representing income. Similarly, Section 158BB (1) for computation of Undisclosed Income, refers to not only evidence in the form of Books of Account or documents but also “such other materials” or “information” as are available with the AO. Loose Papers may come in the category of “Such other materials” or “information” and it is a fact that such loose slips, papers, diaries or documents have been a source of information for large additions and often become contentions issues in post-search assessment /block assessment as to extent of reliance to be placed and the evidently value of such loose papers or documents normally found during the course of the search. The Hon’ble MP High Court in the case of **LUNKAD MEDIA AND ENTERTAINMENT LTD. AND OTHERS Vs UNION OF INDIA [2025-VIL-207-MP-DT]**, held that the loose papers and scrap containing entries were duly examined and verified by the Assessing Officer against the bank statements, therefore, the loose papers were rightly treated as books of account. The assessees were given ample opportunity to produce concrete material to rebut the same, but failed to file any income tax returns or provide any documentary evidence to explain the money receipts.

This being the case with loose documents it needs to be seen, the jurisprudence which will develop, in the case of information derived from “**Cloud Data**” under Income Tax Act 2025

Under Section 253(1)(i) of Income Tax Act 2025 which correspond to Section 133A of Income Tax Act 1961, it is mandatory for assesses to enable the officers on survey "**the inspection of .... information in electronic form or on a computer system...**" and also provide "**Access Code**". Incase the information on Cloud are examined and verified by the Assessing Officer against the bank statements, can these be also treated as books of account is the question which may be asked going forward.

### **Extract of Section "253. Powers of survey" under ITA'25 is as follows -**

*(1) Irrespective of anything contained in any other provision of this Act, an income-tax authority may enter any place at which a business or profession, or activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, where such place.... and, upon entry into such a place, may require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—*

*(i) to provide the necessary technical and other assistance (**including access code**) to enable the inspection of such books of account or other documents, or **information in electronic form or on a computer system**, as may be required and which may be available at such place;*

### **Extract of Section "133A. Powers of survey" under ITA'61 is as follows -**

**133A.** (1) *Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter...*

*at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose-*

*(i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,...*

*(iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act...."*

## BRIEF ABOUT THE AUTHOR:

Vivek Jalan is a Chartered Accountant, M.B.A (International Trade) & a qualified L.L.M (Constitutional Law) & LL.B. He is the Founder & Partner of Tax Connect Advisory Services LLP. He is the Conveynor of The Indirect Tax Core Group of The Confederation of Indian Industries – EAC(ER). He is the Chairperson of The National Fiscal Affairs & Taxation Committee of The Bengal Chamber of Commerce and Industry. He is a Member of The Managing Committee of The Bengal Chamber of Commerce and Industry.

He is a regular Columnist and guest expert in Economic Times, Times of India, Dalal Street Journal, Money Control, Live mint, CNBC, Hindustan Times, Zee Business, Financial Express, other dailies and business magazines like Business Today, etc. He is also a guest expert on Taxation matters in All India Radio and other media platforms. He is the Editor of Weekly Bulletin TAX CONNECT, a publication on Indirect Taxes and Direct Taxes which reaches more than 70000 professionals.

He is also a visiting faculty for Taxes in The Confederation of Indian Industries (CII), The Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Indian Institute of Foreign Trade, The Bengal Chamber of Commerce and Industry, The Indian Chamber of Commerce and other Business Forums. He has also delivered Lectures at various Government Taxation Forums including the CGST & SGST Departments across the country.

He has worked as a Finance Manager in ITC Ltd. and Chief Compliance Officer with IntraSoft Technologies Ltd. He has more than 20 years of experience in the field of Indirect & Direct Taxation. He was also an All-India Rank holder in CA Final Examination conducted by the Institute of Chartered Accountants of India.

His Books on taxation include the following –

- **Income Tax Bill 2025 with Commentary**
- **Union Budget 2025 Edition**
- **Income Tax Section Wise Commentary and Analysis of Recent Developments**
- **GST APPELLATE TRIBUNAL (GSTAT)**
- **TAX PLEADING & PRACTICE JOURNAL – OCTOBER 2023**
- **GST PLEADING & PRACTICE – SEPTEMBER 2023**
- **UNION BUDGET – 2023-24**
- **HANDBOOK ON GST – August 2022**
- **COMMENTARY ON UNION BUDGET 2022 – Feb 2022**
- **GST PLEADING & PRACTICE – AUGUST 2021**
- **COMMENTARY ON UNION BUDGET 2021 – Feb 2021**
- **SECTION-WISE COMPENDIUM ON GST – Oct 2020**
- **INTEGRATED APPROACH TO GST E-INVOICE, E-WAYBILL & RETURN E-FILING – Oct 2020**
- **COMMENTARY ON UNION BUDGET 2020 – Feb 2020**
- **COMMENTARY ON DIRECT TAX VIVAAD SE VISHWAS SCHEME – Feb 2020**
- **SECTION-WISE COMMENTARY ON GST – SEPTEMBER 2018**
- **HOW TO HANDLE GST-TDS, GST-TCS, GST AUDIT & GST ANNUAL RETURN – NOVEMBER 2018**
- **COMMENTARY ON UNION BUDGET 2019 – July 2019**
- **WITHDRAWAL OF LEGAL TENDER 2016**
- **COMMENTARY ON UNION BUDGET 2017**
- **A COMPENDIUM ON GST W.E.F. 1ST JULY 2017**
- **GST MODEL LAW (NOVEMBER 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY**

He is a regular speaker at various professional forums on the various key areas in Indirect & Direct Taxes and has delivered more than 300 lectures on various topics under GST, Customs, Foreign Trade Policy of India, Income Tax, etc.