

**Finance Bill, 2007\***

**[22 OF 2007]**

*A Bill to give effect to the financial proposals of the Central Government for the financial year 2007-2008.*

*Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:-*

## **CHAPTER I**

### **PRELIMINARY**

#### **Short title and commencement**

1. (1) This Act may be called the Finance Act, 2007.

(2) Save as otherwise provided in this Act, sections 2 to 84 shall be deemed to have come into force on the 1st day of April, 2007.

### **CHAPTER II**

#### **RATES OF INCOME-TAX**

#### **Income-tax**

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on 1st day of April, 2007, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh rupees, then,-

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:-

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

**Provided** that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees", the words "one lakh thirty-five thousand rupees" had been substituted :

**Provided further** that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees", the words "one lakh eighty-five thousand rupees" had been substituted :

**Provided also** that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, shall be increased by a surcharge

for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be :

**Provided** that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule :

**Provided further** that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB or fringe benefits chargeable to tax under section 115WA of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,—

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such income-tax where the total income or fringe benefits, as the case may be, exceeds ten lakh rupees;
- (b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company at the rate of ten per cent of such income-tax;
- (c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of ten 25 per cent of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;
- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax;
- (c) in the case of every firm and domestic company, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds ten lakh rupees;

- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax;
- (c) in the case of every firm and domestic company at the rate of ten per cent of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein :

**Provided** that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

**Provided further** that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule :

**Provided also** that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of "advance tax" where the total income exceeds ten lakh rupees;
- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such "advance tax";
- (c) in the case of every firm and domestic company, at the rate of ten per cent of such "advance tax" where the total income exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such "advance tax" where the total income exceeds one crore rupees:

**Provided also** that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" and surcharge on such income shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees :

**Provided also** that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

- (a) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of "advance tax" where the fringe benefits exceed ten lakh rupees;
- (b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent of such "advance tax";
- (c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such "advance tax".

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh ten thousand rupees, then, in

charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh ten thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and
- (b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—
  - (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;
  - (ii) the net agricultural income shall be increased by a sum of one lakh ten thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;
  - (iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income :

**Provided** that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh ten thousand rupees", the words "one lakh forty-five thousand rupees" had been substituted:

**Provided further** that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh ten thousand rupees", the words "one lakh ninety-five thousand rupees" had been substituted :

**Provided also** that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent of such income-tax and surcharge, so as to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(12) The amount of income-tax as specified in sub-sections (4) to (10) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be also increased by an additional surcharge for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent of such income-tax and surcharge, so as to fulfil the commitment of the Government to provide and finance secondary and higher education.

(13) For the purposes of this section and the First Schedule,—

- (a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 2007, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;
- (b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);
- (c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;
- (d) all other words and expressions used in this section and the First Schedule but not defined in this sub-

section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

**CHAPTER III**  
**DIRECT TAXES**

*Income-tax*

**Amendment of section 2.**

**3.** In section 2 of Income-tax Act,—

(a) after clause (1B), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994, namely:—

‘(1C) “Additional Commissioner” means a person appointed to be an Additional Commissioner of Income-tax under sub-section (1) of section 117;

(1D) “Additional Director” means a person appointed to be an Additional Director of Income-tax under sub-section (1) of section 117;’;

(b) in clause (7A),—

(i) after the words “any other provision of this Act, and the”, the words “Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(ii) after the words “Additional Commissioner or”, as so inserted, the words “Additional Director or,” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

(c) after clause (9A), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

‘(9B) “Assistant Director” means a person appointed to be an Assistant Director of Income-tax under sub-section (1) of section 117;’;

(d) in clause (14), for sub-clause (ii), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

(ii) personal effects, that is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent on him, but excludes

(a) jewellery;

(b) archaeological collections;

(c) drawings;

(d) paintings;

(e) sculptures; or

(f) any work of art.

*Explanation.*—For the purposes of this sub-clause, “jewellery” includes—

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;’;

(e) in clause (24), after sub-clause (xiii), the following sub-clause shall be inserted, namely:

“(xiv) any sum referred to in clause (vi) of sub-section (2) of section 56;”;

(f) for clause (25A), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:—

‘(25A) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;’.

#### **Amendment of section 7.**

4. In section 7 of the Income-tax Act, in clause (iii), for the words “Central Government”, the words “Central Government or any other employer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

#### **Amendment of section 9.**

5. In section 9 of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1976, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this section, where income is deemed to accrue or arise in India under clauses (v), (vi) and (vii) of sub-section (1), such income shall be included in the total income of the non-resident, whether or not the non-resident has a residence or place of business or business connection in India.”.

#### **Amendment of section 10.**

6. In section 10 of the Income-tax Act,—

(a) after clause (10BB), the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:—

‘(10BC) any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.

*Explanation.*—For the purposes of this clause, the expression “disaster” shall have the meaning assigned to it under clause (d) of section 2 of the Disaster Management Act, 2005 (53 of 2005);’;

(b) in clause (15), —

(A) in sub-clause (iv), in item (fa), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation.*—For the purposes of this item, the expression “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), but does not include a co-operative bank;’;

(B) for sub-clause (vii), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

‘(vii) interest on bonds

(a) issued by a local authority or by a State Pooled Finance Entity; and

(b) specified by the Central Government by notification in the Official Gazette.

*Explanation.*—For the purposes of this sub-clause, the expression “State Pooled Finance Entity” shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;’;

(c) in clause (23BBD), for the words, figures and letters “seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008”, the words, figures and letters “ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011” shall be substituted with effect from the 1st day of April, 2008;

(d) after clause (23BBF), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:—

“(23BBG) any income of the Central Electricity Regulatory Commission constituted under sub-section (1) of section 76 of the Electricity Act, 2003 (36 of 2003);”;

(e) in clause (23C), with effect from the 1st day of June, 2007,

- (A) in sub-clause (iv), for the words “which may be notified by the Central Government in the Official Gazette”, the words “which may be approved by the prescribed authority” shall be substituted;
- (B) in sub-clause (v), for the words “which may be notified by the Central Government in the Official Gazette”, the words “which may be approved by the prescribed authority” shall be substituted;
- (C) for the second proviso, the following proviso shall be substituted, namely:—  
 “Provided further that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the prescribed authority may also make such inquiries as it deems necessary in this behalf.”;
- (D) in the ninth proviso, for the words, brackets, figures and letter “every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (vi) or sub-clause (via)”, the words, brackets, figures and letter “every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via)” shall be substituted;
- (E) in the thirteenth proviso, after the words “Central Government”, the words “or is approved by the prescribed authority, as the case may be,” shall be inserted;
- (F) after the fifteenth proviso, the following proviso shall be inserted, namely:—  
 “Provided also that all pending applications, on which no notification has been issued under sub-clause (iv) or sub-clause (v) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day.”;
- (f) after clause (23EB), the following shall be inserted with effect from the 1st day of April, 2008, namely:—  
 ‘(23EC) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:  
 Provided that where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.  
*Explanation.*—For the purposes of this clause, “commodity exchange” shall mean a “registered association” as defined in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952);’;
- (g) in clause (23FB), with effect from the 1st day of April, 2008,  
 (i) for the words “set up to raise funds for investment”, the words “from investment” shall be substituted;
- (ii) in *Explanation 1*, for clause (c), the following clause shall be substituted, namely:—  
 ‘(c) “venture capital undertaking” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—  
 (i) business of—  
 (A) nanotechnology;  
 (B) information technology relating to hardware and software

- development;
- (C) seed research and development;
- (D) bio-technology;
- (E) research and development of new chemical entities in the pharmaceutical sector;
- (F) production of bio-fuels; or
- (G) building and operating composite hotel-cum-convention centre with seating capacity of more than three thousand; or
- (ii) dairy or poultry industry;’.

#### **Amendment of section 10AA.**

7. In section 10AA of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 10th day of February, 2006, namely:—

“(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

- (i) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;
- (ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:  
 Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;
- (iii) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanations 1* and *2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.”.

#### **Amendment of section 12A.**

8. In section 12A of the Income-tax Act, with effect from the 1st day of June, 2007,—

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—  
 “Conditions for applicability of sections 11 and 12.”;
- (b) the existing section 12A shall be renumbered as sub-section (1) thereof, and in sub-section (1) as so renumbered,
  - (i) in clause (a), after the proviso, the following proviso shall be inserted, namely:—  
 “Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;”;
  - (ii) after clause (a), the following clause shall be inserted, namely:”
    - (aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Commissioner and such trust or institution is registered under section 12AA;”;
- (c) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—  
 ”(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution for the assessment year immediately following the financial year in which such application is made.”.

#### **Amendment of section 12AA.**

9. In section 12AA of the Income-tax Act, with effect from the 1st day of June, 2007,—

- (a) in sub-section (1), after the word, brackets and letter “clause (a)”, the words, brackets, letters and figure “or clause (aa) of sub-section (1)” shall be inserted;



- (b) in sub-section (2), after the word, brackets and letter “clause (a)”, the words, brackets, letters and figure “or clause (aa) of sub-section (1)” shall be inserted.

**Amendment of section 17.**

**10.** In section 17 of the Income-tax Act,—

- (a) in clause (1), in sub-clause (viii), for the words “Central Government”, the words “Central Government or any other employer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004;
- (b) in clause (2),

(A) after sub-clause (ii),

- (i) the following *Explanations* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

“*Explanation 1.*—For the purposes of this sub-clause, concession in the matter of rent shall be deemed to have been provided if,—

- (a) in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and—

(i) the accommodation is owned by the employer, the value of the accommodation determined at the rate of ten per cent of salary in cities having population exceeding four lakhs as per 1991 census and seven and one-half per cent of salary in other cities, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or ten per cent of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

- (b) in a case where a furnished accommodation is provided by the Central Government or any State Government, the licence fee determined by the Central Government or any State Government in respect of the accommodation in accordance with the rules framed by such Government as increased by the value of furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the aggregate of the rent recoverable from, or payable by, the assessee and any charges paid or payable for the furniture and fixtures by the assessee;

- (c) in a case where a furnished accommodation is provided by an employer other than Central Government or any State Government and

(i) the accommodation is owned by the employer, the value of the accommodation determined under sub-clause (i) of clause (a) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation determined under sub-clause (ii) of clause (a) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

- (d) in a case where the accommodation is provided by the employer in a hotel (except where the assessee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another), the value of the accommodation determined at the rate of twenty-four per cent of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, whichever is lower, for the period during which such accommodation is provided, exceeds the rent recoverable from, or payable by, the assessee.

*Explanation 2.*—For the purposes of this sub-clause, value of furniture and fixture shall be ten

per cent per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the assessee during the previous year.”;

(ii) in the *Explanation 1* as so inserted, for clause (a), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2006, namely:—

“(a) in a case where an unfurnished accommodation is provided by any employer other than Central Government or any State Government and—

(i) the accommodation is owned by the employer, the value of the accommodation determined at the rate of twenty per cent of salary in cities having population exceeding four lakhs as per 2001 census and fifteen per cent of salary in other cities, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or twenty per cent of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;”;

(B) in sub-clause (iii), the proviso shall be omitted with effect from the 1st day of April, 2008.

#### **Amendment of section 35.**

11. In section 35 of the Income-tax Act, in sub-section (2AB), in clause (5), for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2012” shall be substituted with effect from the 1st day of April, 2008.

#### **Amendment of section 36.**

12. In section 36 of the Income-tax Act, in sub-section (1),—

(A) in clause (ib), for the words “paid by cheque”, the words “paid by any mode of payment other than cash” shall be substituted with effect from the 1st day of April, 2008;

(B) in clause (viiia),—

(a) in sub-clause (a), after the words “or a non-scheduled bank”, the words “or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank” shall be inserted;

(b) in the *Explanation*,—

(i) in clause (ii) at the end, the words “, but does not include a co-operative bank” shall be omitted;

(ii) after clause (v), the following clause shall be inserted, namely:—

“(vi) “co-operative bank”, “primary agricultural credit society” and “primary co-operative agricultural and rural development bank” shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P;”;

(C) for clause (viii), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

“(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head “Profits and gains of business or profession” (before making any deduction under this clause) carried to such reserve account:

**Provided** that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

*Explanation.*—In this clause,—

(a) “specified entity” means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956(1 of 1956);

- (ii) a financial corporation which is a public sector company;
- (iii) a banking company;
- (iv) a co-operative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank;
- (v) a housing finance company; and
- (vi) any other financial corporation including a public company;
- (b) "eligible business" means,—
  - (i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance in India for industrial or agricultural development or development of infrastructure facility;
  - (ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and
  - (iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;
- (c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;
- (d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P;
- (e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;
- (f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956(1 of 1956);
- (g) "infrastructure facility" means—
  - (i) an infrastructure facility as defined in the *Explanation* to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;
  - (ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and
  - (iii) an undertaking referred to in sub-section (10) of section 80-IB;
- (h) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;";

(D) clause (x) shall be omitted with effect from the 1st day of April, 2008;

(E) for clause (xii), the following clause shall be substituted with effect from the 1st day of April, 2008, namely:—

- "(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—
- (a) it is constituted or established by a Central, State or Provincial Act;
  - (b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and
  - (c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;";

(F) after clause (xiii), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:—

- '(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

*Explanation.*—For the purposes of this clause, "public financial institution" shall have the meaning

assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);’.

#### **Amendment of section 40A**

**13.** In section 40A of the Income-tax Act, for sub-section (3), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

“(3)(a) Where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding twenty thousand rupees otherwise than by an account payee cheque drawn on a bank or account payee bank draft, no deduction shall be allowed in respect of such expenditure;

(b) where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the amount of payment exceeds twenty thousand rupees:

**Provided** that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under this sub-section where any payment in a sum exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.”.

#### **Amendment of section 49.**

**14.** In section 49 of the Income-tax Act, after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 2008, namely:—

“(2AB) Where the capital gain arises from the transfer of specified security or sweat equity shares, the value of which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC, the cost of acquisition of such security or shares shall be the value under that clause.”.

#### **Amendment of section 54EC.**

**15.** In section 54EC of the Income-tax Act,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

“**Provided** that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees.”;

(b) after sub-section (3), in the *Explanation*,—

(i) for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2006, namely:—

(b) “long-term specified asset” for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before the 31st day of March, 2007,—

(i) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988); or

(ii) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956),

and notified by the Central Government in the Official Gazette for the purposes of this section with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bond) as it thinks fit:’;

(ii) in clause (b) as so substituted, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2006, namely:—

“**Provided** that where any bond has been notified before the 1st day of April, 2007, subject to the conditions specified in the notification, by the Central Government in the Official Gazette under the provisions of clause (b) as they stood immediately before their amendment by the Finance Act, 2007,

such bond shall be deemed to be a bond notified under this clause;”;

(iii) after the proviso as so inserted, the following clause shall be inserted, namely:—

‘(ba) “long-term specified asset” for making any investment under this section on or after the 1st day of April, 2007 means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988) or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956).’.

#### **Amendment of section 56.**

**16.** In section 56 of the Income-tax Act, in sub-section (2), in clause (v), in the proviso, the following sub-clauses shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:—

“(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(g) from any trust or institution registered under section 12AA.”.

#### **Amendment of section 72A.**

**17.** In section 72A of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 2008, namely:—

“(7) Where there has been an amalgamation of—

(a) a company owning an industrial undertaking or a ship or a hotel with another company; or

(b) a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a specified bank; or

(c) one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business,

then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.”.

#### **Amendment of section 80AC.**

**18.** In section 80AC of the Income-tax Act, after the word, figures and letters “section 80-IC”, the words, figures and letters “or section 80-ID” shall be inserted with effect from the 1st day of April, 2008.

#### **Amendment of section 80CCD.**

**19.** In section 80CCD of the Income-tax Act,—

(a) in sub-section (1), for the words “employed by the Central Government”, the words “employed by the Central Government or any other employer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004;

(b) in sub-section (2), for the words “Central Government” at both the places where they occur, the words “Central Government or any other employer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

#### **Amendment of section 80D.**

**20.** In section 80D of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2008,—

(a) for the words “paid by him by cheque”, the words “paid by him by any mode of payment other than cash” shall be substituted;

(b) in clause (i), for the word “ten”, the word “fifteen” shall be substituted;

(c) in clause (ii), for the word “ten”, the word “fifteen” shall be substituted;

(d) in the proviso,—

(i) for the word “ten”, the word “fifteen” shall be substituted;

(ii) for the word “fifteen”, the word “twenty” shall be substituted;

#### **Amendment of section 80E.**

**21.** In section 80E of the Income-tax Act, with effect from the 1st day of April, 2008,—

(i) in sub-section (1), after the words “higher education”, the words “or for the purpose of higher education of his relative” shall be inserted;

(ii) in sub-section (3), after clause (d), the following clause shall be inserted, namely:—

‘(e) “relative”, in relation to an individual, means the spouse and children of that individual.’

#### **Amendment of section 80-IA.**

**22.** In section 80-IA of the Income-tax Act,—

(i) in sub-section (2), after the words “distribution lines”, the words “or lays and begins to operate a cross-country natural gas distribution network” shall be inserted with effect from the 1st day of April, 2008;

(ii) in sub-section (3), for the word, brackets and figures “clause (iv)”, the words, brackets and figures “clause (iv) or clause (v)” shall be substituted with effect from the 1st day of April, 2008;

(iii) in sub-section (4), with effect from the 1st day of April, 2008,—

(A) in clause (i), in the *Explanation*, in clause (d), for the words “or inland port”, the words “, inland port or navigational channel in the sea” shall be substituted;

(B) in clause (v), in sub-clause (b), for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2008” shall be substituted;

(C) after clause (v), the following clause shall be inserted, namely:—

(v) any undertaking carrying on the business of laying and operating a cross-country natural gas distribution network, including pipelines and storage facilities being an integral part of such network, which fulfils the following conditions, namely:—

(a) it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;

(b) it has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) and notified by the Central Government in the Official Gazette;

(c) one-third of its total pipeline capacity is available for use on common carrier basis by any person other than the assessee or an associated person;

(d) it has started or starts operating on or after the 1st day of April, 2007; and

(e) any other condition which may be prescribed.

*Explanation.*—For the purposes of this clause, an “associated person” in relation to the assessee means a person—

(i) who participates directly or indirectly or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent, of the voting power in the assessee;

(iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees not less than ten per cent, of the total borrowings of the assessee.’;

(iv) after sub-section (12), the following sub-section shall be inserted with effect from the 1st day of April, 2008, namely:—

“(12A) Nothing contained in sub-section (12) shall apply to any enterprise or undertaking which is transferred in a scheme of amalgamation or demerger on or after the 1st day

of April, 2007.”;

- (v) after sub-section (73), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:—

*“Explanation.—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to a person who executes a works contract entered into with the undertaking or enterprise, as the case may be.”.*

#### **Amendment of section 80-IB.**

**23.** In section 80-IB of the Income-tax Act, in sub-section (4), in the fourth proviso, for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2012” shall be substituted with effect from the 1st day of April, 2008.

#### **Insertion of new section 80-ID.**

**24.** After section 80-IC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:—

*‘80-ID Deduction in respect of profits and gains from business of hotels and convention centres in specified area.—(1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking from any business referred to in sub-section (2) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business for five consecutive assessment years beginning from the initial assessment year.*

(2) This section applies to any undertaking,—

- (i) engaged in the business of hotel located in the specified area, if such hotel is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2010; or
- (ii) engaged in the business of building, owning and operating a convention centre, located in the specified area, if such convention centre is constructed at any time during the period beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2010.

(3) The deduction under sub-section (1) shall be available only if —

- (i) the eligible business is not formed by the splitting up, or the reconstruction, of a business already in existence;
- (ii) the eligible business is not formed by the transfer to a new business of a building previously used as a hotel or a convention centre, as the case may be;
- (iii) the eligible business is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.—The provisions of Explanations 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section;*

- (iv) the assessee furnishes along with the return of income, the report of an audit in such form and containing such particulars as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or section 10AA, in relation to the profits and gains of the undertaking.

(5) The provisions contained in sub-section (5) and sub-sections (8) to (11) of section 80-IA shall, so far as may be, apply to the eligible business under this section.

(6) For the purposes of this section,—

- (a) “convention centre” means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number and having such other facilities and amenities, as may be prescribed;

- (b) "hotel" means a hotel of two-star, three-star or four-star category as classified by the Central Government;
- (c) "initial assessment year"—
- (i) in the case of a hotel, means the assessment year relevant to the previous year in which the business of the hotel starts functioning;
  - (ii) in the case of a convention centre, means the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis;
- (d) "specified area" means the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad.’.

#### **Amendment of section 92CA.**

**25.** In section 92CA of the Income-tax Act, with effect from the 1st day of June, 2007,—

- (i) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) Where a reference was made under sub-section (1) before the 1st day of June, 2007 but the order under sub-section (3) has not been made by the Transfer Pricing Officer before the said date, or a reference under sub-section (1) is made on or after the 1st day of June, 2007, an order under sub-section (3) may be made at any time before sixty days prior to the date on which the period of limitation referred to in section 153, or as the case may be, in section 153B for making the order of assessment or reassessment or recomputation or fresh assessment, as the case may be, expires.”;

- (ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) On receipt of the order under sub-section (3), the Assessing Officer shall proceed to compute the total income of the assessee under sub-section (4) of section 92C in conformity with the arm’s length price as so determined by the Transfer Pricing Officer.”.

#### **Amendment of section 115JB.**

**26.** In section 115JB of the Income-tax Act, after sub-section (2), in the *Explanation* with effect from the 1st day of April, 2008,—

- (a) in clause (f), the words, figures and letters “section 10A or section 10B or” shall be omitted;
- (b) in clause (ii), the words, figures and letters “section 10A or section 10B or” shall be omitted.

#### **Amendment of section 115-O.**

**27.** In section 115-O of the Income-tax Act, in sub-section (1), for the words “at the rate of twelve and one-half per cent”, the words “at the rate of fifteen per cent” shall be substituted.

#### **Amendment of section 115R.**

**28.** In section 115R of the Income-tax Act, in sub-section (2), for clauses (i) and (ii), the following clauses shall be substituted, namely:—

- “(i) twenty-five per cent, on income distributed by a money market mutual fund or a liquid fund;
- (ii) twelve and one-half per cent, on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund; and
- (iii) twenty per cent, on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund.”.

#### **Amendment of Explanation to Chapter XII-E.**

**29.** In Chapter XII-E of the Income-tax Act, after section 115T, in the *Explanation*, after clause (c), the following clauses shall be inserted, namely:—

- “(d) “money market mutual fund” means a money market mutual fund as defined in sub-clause (p) of clause 2 of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;
- (e) “liquid fund” means a scheme or plan of a mutual fund which is classified by the Securities and Exchange Board of India as a liquid fund in accordance with the guidelines issued by it in this behalf under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder.’.



**Amendment of section 115WB.**

**30.** In section 115WB of the Income-tax Act, with effect from the 1st day of April, 2008,—

(A) in sub-section (1),—

- (i) in clause (b), the word “and” occurring at the end shall be omitted;
- (ii) in clause (c), for the word “employees”, the words “employees; and” shall be substituted;
- (iii) after clause (c), the following clause shall be inserted, namely: —
  - (d) any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees).

*Explanation.*—For the purposes of this clause,-

- (i) “specified security” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and includes employees’ stock option;
- (ii) “sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.’;

(B) in sub-section (2), in the proviso,—

- (a) in clause (v), for the words “bill boards”, the words “bill boards, display of products” shall be substituted;
- (b) for clause (vii), the following clause shall be substituted, namely:—
  - “(vii) being the expenditure on distribution of samples either free of cost or at concessional rate; and”.

**Amendment of section 115WC.**

**31.** In section 115WC of the Income-tax Act, in sub-section (1), after clause (b), the following shall be inserted with effect from the 1st day of April, 2008, namely:—

‘(ba) the fair market value of the specified security or sweat equity shares referred to in clause (d) of sub-section (1) of section 115WB, on the date of exercise of the option by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such security or shares.

*Explanation.*—For the purposes of this clause, “fair market value” means the value determined in accordance with the method as may be prescribed by the Board.’;

**Amendment of section 115WJ.**

**32.** In section 115WJ of the Income-tax Act, for sub-sections (2) and (3), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

“(2) Advance tax on the current fringe benefits shall be payable by-

- (a) all the companies, who are liable to pay the same in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table I below :

**TABLE I**

<i>Due date of instalment</i>	<i>Amount payable</i>
On or before the 15th June	Not less than fifteen per cent, of such advance tax.
On or before the 15th September	Not less than forty-five per cent, of such advance tax as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent, of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

- (b) all the assesseees (other than companies), who are liable to pay the same in three instalments during each

financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table II below :

**TABLE II**

<i>Due date of instalment</i>	<i>Amount payable</i>
On or before the 15th September	Not less than thirty per cent, of such advance tax.
On or before the 15th December	Not less than sixty per cent, of such advance tax as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(3) Where an assessee has failed to pay the advance tax payable by him on or before the due date for any instalment or where the advance tax paid by him is less than the amount payable by the due date, he shall be liable to pay simple interest at the rate of one per cent, of the amount by which the advance tax paid falls short of the amount payable by the due date for every month or part of the month for which the shortfall continues.”.

**Amendment of section 120.**

**33.** In section 120 of the Income-tax Act, in sub-section (4), in clause (b) —

- (i) after the words “shall be exercised or performed by”, the words “an Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;
- (ii) after the words “an Additional Commissioner or”, as so inserted, the words “an Additional Director or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;
- (iii) after the words “deemed to be references to such”, the words “Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;
- (iv) after the words “Additional Commissioner or” as so inserted, the words “Additional Director or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996.

**Amendment of section 132B.**

**34.** In section 132B of the Income-tax Act, in sub-section (4), in clause (a), for the words “six per cent, per annum”, the words “one-half per cent, for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

**Amendment of section 139.**

**35.** In section 139 of the Income-tax Act, in sub-section (9), the proviso occurring at the end shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2006.

**Insertion of new sections 139C and 139D.**

**36.** After section 139B of the Income-tax Act, the following sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2006, namely:—

“139C. *Power of Board to dispense with furnishing documents, etc., with the return.*—(1) The Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificates, audited reports or any other documents, which are otherwise under any other provisions of this Act, except section 139D, required to be furnished, along with the return but on demand to be produced before the Assessing Officer.

(2) Any rule made under the proviso to sub-section (9) of section 139 as it stood immediately before its omission by the Finance Act, 2007 shall be deemed to have been made under the provisions of this section.

139D. *Filing of return in electronic form.*—The Board may make rules providing for—

- (a) the class or classes of persons who shall be required to furnish the return in electronic form;
- (b) the form and the manner in which the return in electronic form may be furnished;
- (c) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

- (d) the computer resource or the electronic record to which the return in electronic form may be transmitted.”.

#### **Amendment of section 142.**

**37.** In section 142 of the Income-tax Act,—

- (a) in sub-section (2A), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“**Provided** that the Assessing Officer shall not direct the assessee to get the accounts so audited unless the assessee has been given a reasonable opportunity of being heard.”;

- (b) in sub-section (2D), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“**Provided** that where any direction for audit under sub-section (2A) is issued by the Assessing Officer on or after the 1st day of June, 2007, the expenses of, and incidental to, such audit (including the remuneration of the Accountant) shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government.”.

#### **Amendment of section 143.**

**38.** In section 143 of the Income-tax Act, in sub-section (3), in the proviso, in sub-clause (ii) after the words “scientific research association or other association”, the words “or fund or trust” shall be inserted with effect from the 1st day of June, 2007.

#### **Amendment of section 153.**

**39.** In section 153 of the Income-tax Act, with effect from the 1st day of June, 2007,—

- (a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

‘**Provided** further that in case the assessment year in which the income was first assessable is the assessment year commencing on the 1st day of April, 2005 or any subsequent assessment year and during the course of the proceeding for the assessment of total income, a reference under sub-section (1) of section 92CA—

- (i) was made before the 1st day of June, 2007 but an order under sub-section (3) of that section has not been made before such date; or  
(ii) is made on or after the 1st day of June, 2007,

the provisions of clause (a) shall, notwithstanding anything contained in the first proviso, have effect as if for the words “two years”, the words “thirty-three months” had been substituted.’;

- (b) in sub-section (2), after the second proviso, the following proviso shall be inserted, namely:—

‘**Provided** also that where the notice under section 148 was served on or after the 1st day of April, 2006 and during the course of the proceedings for the assessment or reassessment or recomputation of total income, a reference under sub-section (1) of section 92CA—

- (i) was made before the 1st day of June, 2007 but an order under sub-section (3) of that section has not been made before such date; or  
(ii) is made on or after the 1st day of June, 2007,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words “one year”, the words “twenty-one months” had been substituted.’;

- (c) in sub-section (2A), after the second proviso, the following proviso shall be inserted, namely:—

‘**Provided also** that where the order under section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Commissioner on or after the 1st day of April, 2006, and during the course of the proceedings for the fresh assessment of total income, a reference under sub-section (1) of section 92CA—

- (i) was made before the 1st day of June, 2007 but an order under sub-section (3) of section 92CA has not been made before such date; or  
(ii) is made on or after the 1st day of June, 2007,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "twenty-one months" had been substituted.'

#### **Amendment of section 153B.**

**40.** In section 153B of the Income-tax Act, in sub-section (1), after the second proviso and before the *Explanation*, the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:—

'**Provided** also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2005 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA—

- (i) was made before the 1st day of June, 2007 but an order under sub-section (3) of section 92CA has not been made before such date; or
- (ii) is made on or after the 1st day of June, 2007,

the provisions of clause (a) or clause (b) of this sub-section shall, notwithstanding anything contained in clause (i) of the second proviso, have effect as if for the words "two years", the words "thirty three months" had been substituted:

**Provided** also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2005 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA—

- (i) was made before the 1st day of June, 2007 but an order under sub-section (3) of section 92CA has not been made before such date; or
- (ii) is made on or after the 1st day of June, 2007,

the period of limitation for making the assessment or reassessment in case of such other person shall, notwithstanding anything contained in clause (ii) of the second proviso, be the period of thirty-three months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twenty-one months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.'

#### **Insertion of new section 153D**

**41.** In the Income-tax Act, after section 153C, the following section shall be inserted with effect from the 1st day of June, 2007, namely:—

*'153D. Prior approval necessary for assessment in cases of search or requisition.—No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner.'*

#### **Amendment of section 172.**

**42.** In section 172 of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted, namely:-

"(4A) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (4) after the expiry of nine months from the end of the financial year in which the return under sub-section (3) is furnished:

**Provided** that where the return under sub-section (3) has been furnished before the 1st day of April, 2007, such order shall be made on or before the 31st day of December, 2008."

#### **Amendment of section 193.**

**43.** In section 193 of the Income-tax Act, in the proviso, in clause (IV), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

"**Provided** that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand

payable on 8% Savings (Taxable) Bonds, 2003 during the financial year;”.

#### **Amendment of section 194A.**

**44.** In section 194A of the Income-tax Act, in sub-section (3), in clause (i), for the words “does not exceed five thousand rupees”, the following words, brackets, letters and figures shall be substituted with effect from the 1st day of June, 2007, namely:—

“does not exceed—

- (a) ten thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);
- (b) ten thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;
- (c) ten thousand rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and
- (d) five thousand rupees in any other case:”.

#### **Amendment of section 194C.**

**45.** In section 194C of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—

“(1) Any person responsible for paying any sum to any resident (hereinafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and—

- (a) the Central Government or any State Government; or
- (b) any local authority; or
- (c) any corporation established by or under a Central, State or Provincial Act; or
- (d) any company; or
- (e) any co-operative society; or
- (f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or
- (g) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India; or
- (h) any trust; or
- (i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956) ; or
- (j) any firm; or
- (k) any individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor, shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—
  - (i) one per cent, in case of advertising,
  - (ii) in any other case two per cent.,

of such sum as income-tax on income comprised therein:

**Provided** that no individual or a Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.”.

#### **Amendment of section 194H.**

**46.** In section 194H of the Income-tax Act, with effect from the 1st day of June, 2007,-

(a) for the words “five per cent.”, the words “ten per cent.” shall be substituted;

(b) after the second proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

“**Provided** also that no deduction shall be made under this section on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.”.

**Amendment of section 194-I.**

**47.** In section 194-1 of the Income-tax Act, for clauses (a) and (b), the following clauses shall be substituted with effect from the 1st day of June, 2007, namely:—

“(a) ten per cent, for the use of any machinery or plant or equipment;

(b) fifteen per cent, for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is an individual or a Hindu undivided family; and

(c) twenty per cent, for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is a person other than an individual or a Hindu undivided family:”.

**Amendment of section 194J.**

**48.** In section 194J of the Income-tax Act, in sub-section (1), for the words “five per cent.”, the words “ten per cent.” shall be substituted with effect from the 1st day of June, 2007.

**Amendment of section 197A.**

**49.** In section 197A of the Income-tax Act, in sub-section (1C), the words, figures and letter “and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 2006.

**Amendment of section 201.**

**50.** In section 201 of the Income-tax Act, in sub-section (1A), for the words “twelve per cent, per annum”, the words “one per cent, for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

**Amendment of section 206A.**

**51.** In section 206A of the Income-tax Act, in sub-section (1), for the words “not exceeding five thousand rupees”, the words “not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case” shall be substituted with effect from the 1st day of June, 2007.

**Amendment of section 206C**

**52.** In section 206C of the Income-tax Act, in sub-section (7C), after the Table, the following *Explanations* shall be inserted with effect from the 1st day of June, 2007, namely:—

*Explanation 1.*—For the purposes of this sub-section, “mining and quarrying” shall not include mining and quarrying of mineral oil.

*Explanation 2.*—For the purposes of *Explanation 1*, “mineral oil” includes petroleum and natural gas.’.

**Amendment of section 245A.**

**53.** In section 245A of the Income-tax Act, with effect from the 1st day of June, 2007,—

(a) for clause (b), the following clause shall be substituted, namely:-

(b) “case” means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made:

**Provided that-**

- (i) a proceeding for assessment or reassessment or recomputation under section 147;
- (ii) a proceeding for assessment or reassessment for any of the assessment years referred to in clause (b) of section 153A in case of a person referred to in section 153A or section 153C;
- (iii) a proceeding for assessment or reassessment for the assessment year referred to in clause (b) of sub-section (1) of section 153B in case of a person referred to in section 153A or section 153C;
- (iv) a proceeding for making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment,

shall not be a proceeding for assessment for the purposes of this clause.

*Explanation.-For the purposes of this clause-*

- (i) a proceeding for assessment or reassessment or recomputation referred to in clause (1) of the proviso shall be deemed to have commenced from the date on which a notice under section 148 is issued;
  - (ii) a proceeding for assessment or reassessment referred to in clause (ii) or clause (iii) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 132 or requisition under section 132A;
  - (iii) a proceeding for making fresh assessment referred to in clause (iv) of the proviso shall be deemed to have commenced from the date on which the order under section 254 or section 263 or section 264, setting aside or cancelling an assessment was passed;
  - (iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (ii) or clause (iii) or clause (iv) of the proviso, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made;'
- (b) in clause (g), after the words "Settlement Commission", the words "and includes a Member who is senior amongst the Members of a Bench" shall be inserted.

**Amendment of section 245C**

**54.** In section 245C of the Income-tax Act, with effect from the 1st day of June, 2007-

- (i) in sub-section (1), for the proviso, the following proviso shall be substituted, namely:-

**"Provided** that no such application shall be made unless-

- (i) the additional amount of income-tax payable on the income disclosed in the application exceeds three lakh rupees; and
- (ii) such tax and the interest thereon, which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.";
- (ii) in sub-section (1A), the words, brackets, figures and letters "and sub-sections (2A) to (2D) of section 245D" shall be omitted;
- (iii) for sub-section (1B), the following sub-section shall be substituted namely:-  
"(1B) Where the income disclosed in the application relates to only one previous year,-
  - (i) if the applicant has not furnished a return in respect of the total income of that year, then, tax shall be calculated on the income disclosed in the application as if such income were the total income;
  - (ii) if the applicant has furnished a return in respect of the total income of that year, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income.";

- (iv) in sub-section (1C), clause (c) shall be omitted;

- (v) after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) An assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also send a copy of such application to the Assessing Officer."

**Amendment of section 245D**

55. In section 245D of the Income-tax Act, -

(i) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:-

“(1) On receipt of an application under section 245C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

**Provided** that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.”;

(ii) for sub-sections (2A), (2B), (2C) and (2D), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:-

“(2A) Where an application was made under section 245C before the 1st day of June, 2007, but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the income disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

*Explanation.*—In respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) The Settlement Commission shall,-

(i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or

(ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007, call for a report from the Commissioner, and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Commissioner:

**Provided** that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

**Provided further** that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

“(2D) Where an application was made under sub-section (1) of section 245C before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional tax on the income disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.”;

(iii) for sub-sections (3), (4) and (4A), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:-

“(3) The Settlement Commission, in respect of-

(i) an application which has not been declared invalid under sub-section (2C); or

(ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section, may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall



furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

**Provided** that where the Commissioner does not furnish the report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

- (4) After examination of the records and the report of the Commissioner, if any, received under-
- (i) sub-section (2B) or sub-section (3), or
  - (ii) the provisions of sub-sections (1) as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

- (4A) The Settlement Commission shall pass an order under sub-section (4),-
- (i) in respect of an application referred to in sub-section (2A) or sub-section (2D), on or before the 31st day of March, 2008;
  - (ii) in respect of an application made on or after the 1st day of June, 2007, within nine months from the end of the month in which the application was made.”;
  - (iv) in sub-section (6A), for the words “fifteen per cent. per annum”, the words “one and one-fourth per cent. for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

#### **Amendment of section 245DD.**

**56.** In section 245DD of the Income-tax Act, in sub-section (2), in the proviso, the words “,so, however, that the total period of extension shall not in any case exceed two years” shall be omitted with effect from the 1st day of June, 2008.

#### **Amendment of section 245E.**

**57.** In section 245E of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 245C is made on or after the 1st day of June, 2007.”.

#### **Amendment of section 245F.**

**58.** In section 245F of the Income-tax Act, in sub-section (2), the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:-

**“Provided** that where an application has been made under section 245C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

**Provided** further that where—

- (i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D; or
- (ii) an application is not allowed to be proceeded with under sub-section (2A) of section 245D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or
- (iii) an application is not allowed to be further proceeded with under sub-section (2D) of section 245D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction upto the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.”.

#### **Amendment of section 245H.**

**59.** In section 245H of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“Provided further that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code (45 of 1860) or under any Central Act other than this Act and the Wealth-tax Act, 1957 (27 of 1957) to a person who makes an application under section 245C on or after the 1st day of June, 2007.”.

**Insertion of new sections 245HA and 245HAA.**

**60.** After section 245H of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2007, namely:—

“245HA. *Abatement of proceeding before Settlement Commission.* - (1) Where—

- (i) an application made under section 245C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 245D; or
- (ii) an application made under section 245C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 245D; or
- (iii) an application made under section 245C has been declared as invalid under sub-section (2C) of section 245D; or
- (iv) in respect of any other application made under section 245C, an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D, the proceedings before the Settlement Commission shall abate on the specified date.

*Explanation.*—For the purposes of this sub-section, “specified date” means—

- (a) in respect of an application referred to in clause (i), the day on which the application was rejected;
- (b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;
- (c) in respect of an application referred to in clause (iii), the last day of the month in which the application was declared invalid;
- (d) in respect of an application referred to in clause (iv), on the date on which the time or period specified in sub-section (4A) of section 245D expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other income-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other income-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under sections 149, 153, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment under sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 245C and ending with “specified date” referred to in sub-section (1) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the firm under sub section (1) of section 186, the period aforesaid shall, likewise, be excluded.

245HAA. *Credit for tax paid in case of abatement of proceedings.* - Where an application made under section 245C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D, or any other application made under section 245C is not allowed to be proceeded with under sub-section (2A) of section 245D or is declared invalid under sub-section (2C) of section 245D or has not been allowed to be further proceeded with under sub-section (2D) of section 245D or an order under sub-section (4) of section 245D has not been passed within the time or period specified under sub-section (4A) of section 245D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.”.

**Substitution of new section for section 245K.**

**61.** For section 245K of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—

“245K. *Bar on subsequent application for settlement.* - (1) Where—

- (i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who made the application under section 245C for settlement, on the ground of concealment of particulars of his income; or
- (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or
- (iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

(2) Where a person has made an application under section 245C on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 245D, such person shall not be subsequently entitled to make an application under section 245C”.

**Amendment of section 246A.**

**62.** In section 246A of the Income-tax Act, with effect from the 1st day of June, 2007,—

(a) in sub-section (1), -

(i) after clause (ha), the following clause shall be inserted, namely:—

“(hb) an order made under sub-section (6A) of section 206C;”;

(ii) in clause (j), in sub-clause (B), after the word, figures and letter “section 271 A,” the word, figures and letters “section 271AAA,” shall be inserted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) Every appeal filed by an assessee in default against an order under sub-section (6A) of section 206C on or after the 1st day of April, 2007 but before the 1st day of June, 2007 shall be deemed to have been filed under this section.”.

**Substitution of new section for section 248.**

**63.** For section 248 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—

“248. *Appeal by person denying liability to deduct tax in certain cases.* - Where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.”.

**Amendment of section 249.**

**64.** In section 249 of the Income-tax Act, in sub-section (2), for clause (a), the following clause shall be substituted with effect from the 1st day of June, 2007, namely:—

“(a) where the appeal is under section 248, the date of payment of the tax, or”.

**Amendment of section 253.**

**65.** In section 253 of the Income-tax Act, in sub-section (1), in clause (c), for the words, figures and letters “under section 12AA”, the words, figures, letters and brackets “under section 12AA or under clause (vi) of sub-section (5) of section 80G” shall be substituted with effect from the 1st day of June, 2007.

**Amendment of section 254.**

**66.** In section 254 of the Income-tax Act, in sub-section (2A), for the provisos, the following provisos shall be substituted with effect from the 1st day of June, 2007, namely:—

**“Provided** that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of section 253, for a period not exceeding one hundred and eighty days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order:

**Provided further** that where such appeal is not so disposed of within the said period of stay as specified in the order of stay, the Appellate Tribunal may, on an application made in this behalf by the assessee and on being satisfied that the delay in disposing of the appeal is not attributable to the assessee, extend the period of stay, or pass an order of stay for a further period or periods as it thinks fit; so, however, that the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed:

**Provided also** that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, the order of stay shall stand vacated after the expiry of such period or periods.”.

#### **Amendment of section 271.**

**67.** In section 271 of the Income-tax Act, in sub-section (1),—

- (i) in *Explanation 4*, in clause (b), for the words “means the tax on the total income assessed;”, the words and figures “means the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self assessment tax paid before the issue of notice under section 148;” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2003;
- (ii) in *Explanation 5*, in the opening portion, for the words and figures “search under section 132”, the words, figures and letters “search initiated under section 132 before the 1st day of June, 2007” shall be substituted with effect from the 1st day of June, 2007;
- (iii) after *Explanation 5*, the following *Explanation* shall be inserted with effect from the 1st day of June, 2007, namely:—

*“Explanation 5A.—Where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of,—*

- (i) any money, bullion, jewellery or other valuable article or thing (hereinafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or
- (ii) any income based on any entry in any books of account or other documents or transactions and claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of the search and the due date for filing the return of income for such year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.”.

#### **Insertion of new section 271AAA.**

**68.** In the Income-tax Act, after section 271AA, the following section shall be inserted, namely:—

*‘271AAA. Penalty where search has been initiated. - (1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of June, 2007, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate often per cent. of the undisclosed income of the specified previous year.*

(2) Nothing contained in sub-section (1) shall apply if the assessee,—

- (i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;
- (ii) substantiates the manner in which the undisclosed income was derived; and
- (iii) pays the tax, together with interest, if any, in respect of the undisclosed income.

(3) No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1).

(4) The provisions of sections 274 and 275 shall, so far as may be, apply in relation to the penalty referred to in this section.

*Explanation.*—For the purposes of this section,—

(a) “undisclosed income” means—

(i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

(A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or

(B) otherwise not been disclosed to the Chief Commissioner or Commissioner before the date of the search; or

(ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted;

(b) “specified previous year” means the previous year—

(i) which has ended before the date of search, but the date of filing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the said date; or

(ii) in which search was conducted.’.

#### **Insertion of new section 292C.**

**69.** After section 292B of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

“292C. *Presumption as to assets, books of account, etc.* - Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may, in any proceeding under this Act, be presumed—

(i) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) that the contents of such books of account and other documents are true; and

(iii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person’s handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.”.

#### **Amendment of section 295.**

**70.** In section 295 of the Income-tax Act, in sub-section (2), after clause (eeb), the following clauses shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of June, 2006, namely:—

“(eeba) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return but shall be produced before the Assessing Officer on demand under section 139C;

(eebb) the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner of furnishing the said return in electronic form; documents, statements, receipts, certificates or reports which shall not be furnished with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 139D;”.

#### **Amendment of section 296.**

**71.** In section 296 of the Income-tax Act, with effect from the 1st day of June, 2007, for the words, brackets, figures and letter “every notification issued under sub-clause (iv) of clause (23C) of section 10”, the words, figures, letters and brackets “every notification issued before the 1st day of June, 2007 under sub-clause (iv) of

clause (23C) of section 10” shall be substituted.

#### **Amendment of Second Schedule.**

**72.** In the Second Schedule to the Income-tax Act, with effect from the 1st day of April, 2008,—

- (a) in rule 60, in sub-rule (1), in clause (a), for the words “fifteen per cent. per annum”, the words “one and one-fourth per cent. for every month or part of a month” shall be substituted;
- (b) in rule 68A, in sub-rule (3), for the words “six per cent. per annum”, the words “one-half per cent. for every month or part of a month” shall be substituted.

#### **Amendment of Fourth Schedule.**

**73.** In the Fourth Schedule to the Income-tax Act, in Part A,—

(i) in rule 3, in sub-rule (1),—

- (a) in the proviso, for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2008” shall be substituted;
- (b) after the proviso, the following proviso shall be inserted, namely:—

“**Provided further** that nothing contained in the first proviso shall apply to the provident fund of an establishment in respect of which a notification has been issued by the Central Government under sub-section (2) of section 16 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).”;

(ii) in rule 4, for clause (ea), the following clause shall be substituted, namely:—

“(ea) the fund shall be a fund of an establishment to which the provisions of sub-section (3) of section 1 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) apply or of an establishment which has been notified by the Central Provident Fund Commissioner under sub-section (4) of section 1 of the said Act, and such establishment shall obtain exemption under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section;”.

#### *Wealth-tax*

#### **Amendment of section 2.**

**74.** In section 2 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act),—

(a) in clause (ca)—

- (i) after the words and figure “section 8 of this Act and also the”, the words “Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;
- (ii) after the words “Additional Commissioner or”, as so inserted, the words “Additional Director or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

(b) for clause (ka), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:—

(ka) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, (80 of 1976) and the air space above its territory and territorial waters;”.

#### **Amendment of section 22A.**

**75.** In section 22A of the Wealth-tax Act, with effect from the 1st day of June, 2007,—

(a) for clause (b), the following shall be substituted, namely:—

“(b) “case” means any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 22C is made:

Provided that—

- (i) a proceeding for assessment or reassessment under section 17;

- (ii) a proceeding for making fresh assessment in pursuance of an order under section 23A or section 24 or section 25, setting aside or cancelling an assessment;
- (iii) a proceeding for assessment or reassessment which may be initiated on the basis of a search under section 37A or requisition under section 37B,

shall not be a proceeding for assessment for the purposes of this clause.

*Explanation*,—For the purposes of this clause—

- (i) a proceeding for assessment or reassessment referred to in clause (i) of the proviso shall, in case where a notice under section 17 is issued but not on the basis of search under section 37A or requisition under section 37B, be deemed to have commenced from the date on which a notice under section 17 is issued;
  - (ii) a proceeding for making fresh assessment referred to in clause (ii) of the proviso shall be deemed to have commenced from the date on which the order under section 23A or section 24 or section 25, setting aside or cancelling an assessment was passed;
  - (iii) a proceeding for assessment or reassessment referred to in clause (iii) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 37A or requisition under section 37B;
  - (iv) a proceeding for assessment for an assessment year, other than the proceeding of assessment or reassessment referred to in clause (i) or clause (ii) or clause (iii) of the proviso, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made;'
- (b) in clause (f), after the words "Settlement Commission", the words "and includes a Member who is senior amongst the Members of a Bench" shall be inserted.

#### **Amendment of section 22C.**

**76.** In section 22C of the Wealth-tax Act, with effect from the 1st day of June, 2007,—

- (i) in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—
 

"**Provided** that no such application shall be made unless such wealth-tax and the interest thereon, which would have been paid under the provisions of this Act had the wealth declared in the application been declared in the return of wealth before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.";
- (ii) in sub-section (1A), the words, brackets, figures and letters "and sub-sections (2A) to (2D) of section 22D" shall be omitted;
- (iii) for sub-section (1B), the following sub-section shall be substituted, namely:—
 

"(1B) Where the wealth disclosed in the application relates to only one previous year,—

  - (i) if the applicant has not furnished a return in respect of the net wealth of that year, then, wealth tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth;
  - (ii) if the applicant has furnished a return in respect of the net wealth of that year, wealth-tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth.";
- (iv) in sub-section (1C), clause (c) shall be omitted;
- (v) after sub-section (3), the following sub-section shall be inserted, namely:—
 

"(4) An assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also send a copy of such application to the Assessing Officer."

#### **Amendment of section 22D.**

**77.** In section 22D of the Wealth-tax Act —

- (i) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—
 

"(1) on receipt of an application under section 22C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain as to

why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with:

**Provided** that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.”;

(ii) for sub-sections (2A), (2B), (2C) and (2D), the following sub-sections shall be substituted with affect from the 1st day of June, 2007, namely:—

“(2A) Where an application was made under section 22C before the 1st day of June, 2007 but an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional wealth-tax on the wealth disclosed in such application and the interest thereon is paid on or before the 31st day of July, 2007.

*Explanation.*—In respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall be deemed to be the date of the order of rejection or allowing the application to be proceeded with under sub-section (1).

(2B) the Settlement Commission shall,—

- (i) in respect of an application which is allowed to be proceeded with under sub-section (1), within thirty days from the date on which the application was made; or
- (ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007,

call for a report from the Commissioner, and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the material contained in such report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, and shall send the copy of such order to the applicant and the Commissioner:

**Provided** that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

**Provided** further that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(2D) Where an application was made under sub-section (1) of section 22C before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section, as they stood immediately before their amendment by the Finance Act, 2007, allowing the application to have been proceeded with, has been passed before the 1st day of June, 2007, but an order under the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional wealth-tax on the wealth disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.”;

(iii) for sub-sections (3), (4) and (4A), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

“(3) The Settlement Commission, in respect of —

- (i) an application which has not been declared invalid under sub-section (2C); or
- (ii) an application referred to in sub-section (2D) which has been allowed to be further proceeded with under that sub-section, may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission:

**Provided** that where the Commissioner does not furnish his report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such



report.

- (4) After examination of the records and the report of the Commissioner, if any, received under—
- (i) sub-section (2B) or sub-section (3), or
  - (ii) the provisions of sub-section (1), as they stood immediately before their amendment by the Finance Act, 2007,

and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

(4A) The Settlement Commission shall pass an order under sub-section (4),—

- (i) in respect of an application referred to in sub-section (2A) or sub-section (2D), on or before the 31st day of March, 2008;
- (ii) in respect of an application made on or after 1st day of June, 2007, within nine months from the end of the month in which the application was made.”;
- (iv) in sub-section (6A), for the words “fifteen per cent. per annum”, the words “one and one-fourth per cent. for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

#### **Amendment of section 22DD.**

**78.** In section 22DD of the Wealth-tax Act, in sub-section (2), in the proviso, the words “, so, however, that the total period of extension shall not in any case exceed two years” shall be omitted with effect from the 1st day of June, 2007.

#### **Amendment of section 22E.**

**79.** In section 22E of the Wealth-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“**Provided** further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 22C is made on or after the 1st day of June, 2007.”.

#### **Amendment of section 22F.**

**80.** In section 22F of the Wealth-tax Act, in sub-section (2), the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:—

“**Provided** that where an application has been made under section 22C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made:

**Provided** further that where—

- (i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D; or
- (ii) an application is not allowed to be proceeded with under sub-section (2A) of section 22D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or
- (iii) an application is not allowed to be further proceeded with under sub-section (2D) of section 22D,

the Settlement Commission, in respect of such application shall have such exclusive jurisdiction up to the date on which the application is rejected, or, not allowed to be proceeded with, or, declared invalid, or, not allowed to be further proceeded with, as the case may be.”.

#### **Amendment of section 22H.**

**81.** In section 22H of the Wealth-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“**Provided further** that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code (45 of 1860) or under any Central Act other than this Act and Income-tax Act, 1961 (43 of 1961) to a person who makes an application under section 22C on or after the 1st day of June,

2007.”.

### **Insertion of new sections 22HA and 22HAA.**

**82.** After section 22H of the Wealth-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2007, namely:—

*22HA. Abatement of the proceeding before Settlement Commission. - (1) Where —*

- (i) an application made under section 22C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 22D; or
- (ii) an application made under section 22C has not been allowed to be proceeded with under sub-section (2A) or further proceeded with under sub-section (2D) of section 22D; or
- (iii) an application made under section 22C has been declared as invalid under sub-section (2C) of section 22D; or
- (iv) in respect of any other application made under section 22C, an order under sub-section (4) of section 22D has not been passed within the time or period specified under sub-section (4A) of section 22D,

the proceedings before the Settlement Commission shall abate on the specified date.

*Explanation.—*For the purposes of this sub-section, “specified date” means—

- (a) in respect of an application referred to in clause (i), the date on which the application was rejected;
- (b) in respect of an application referred to in clause (ii), the 31st day of July, 2007;
- (c) in respect of an application referred to in clause (iii) the last day of the month in which the application was declared invalid;
- (d) in respect of an application referred to in clause (iv), the date on which the time or period specified in sub-section (4A) of section 22D expires.

(2) Where a proceeding before the Settlement Commission abates, the Assessing Officer, or, as the case may be, any other Wealth-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 22C had been made.

(3) For the purposes of sub-section (2), the Assessing Officer, or, as the case may be, other Wealth-tax authority, shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it, as if such material, information, inquiry and evidence had been produced before the Assessing Officer or other Wealth-tax authority or held or recorded by him in the course of the proceedings before him.

(4) For the purposes of the time-limit under sections 17A, 32, and 35 and for the purposes of payment of interest under section 34A, in case referred to in sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 22C and ending with “specified date” referred to in sub-section (1) shall be excluded.

*22HAA. Credit for tax paid in case of abatement of proceedings. -* Where an application made under section 22C on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D, or any other application made under section 22C is not allowed to be proceeded with under sub-section (2A) of section 22D or is declared invalid under sub-section (2C) of section 22D or has not been allowed to be further proceeded with under sub-section (2D) of section 22D or an order under sub-section (4) of section 22D has not been passed within the time or period specified under sub-section (4A) of section 22D, the Assessing Officer shall allow the credit for the tax and interest paid on or before the date of making the application or during the pendency of the case before the Settlement Commission.’.

### **Substitution of new section for section 22K.**

**83.** For section 22K of the Wealth-tax Act, the following section shall be substituted with effect from the 1st day of June, 2007, namely:—

*22K. Bar on subsequent application for settlement. - (1) Where —*

- (i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his net wealth; or

- (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case; or
- (iii) the case of any such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June, 2002,

then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.

(2) Where a person has made an application under section 22C on or after the 1st June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 22D, such person shall not be subsequently entitled to make an application under section 22C”.

#### **Insertion of new section 42D.**

**84.** After section 42C of the Wealth Tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

“42D. *Presumption as to assets, books of account, etc.* - Where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may, in any proceeding under this Act, be presumed that—

- (i) such books of account or other documents, articles or things including money belong to such person;
- (ii) the contents of such books of account or other documents are true; and
- (iii) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person’s handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.”.

## *CHAPTER IV*

### **INDIRECT TAXES**

#### *Customs*

#### **Amendment of section 2.**

**85.** In section 2 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act), in clause (41), for the words, brackets and figures “sub-section (1) of section 14”, the words, brackets and figures “sub-section (1) or sub-section (3) of section 14” shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

#### **Substitution of new section for section 14.**

**86.** For section 14 of the Customs Act, the following section shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—

#### *Valuation of goods for purposes of assessment.*

‘14. (1) For the purposes of the Customs Tariff Act, 1975 (51 of 1975), or any other law for the time being in force, the value of the imported goods and export goods shall be the transaction value of such goods, as determined in accordance with the rules made in this behalf:

**Provided** that such transaction value in the case of imported goods shall include, in addition to the price actually paid or payable for the goods when sold for export to India, any amount that the buyer is liable to pay for costs and services, including commissions and brokerage, assists, engineering, design work, royalties and licence fees, costs of transportation to the place of importation, insurance, and handling charges:

**Provided further** that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill or bill of export, as the case may be, is presented under section 50.

(2) Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods, having regard to the trend of value of such or like goods, and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value.

(3) Where there is no sale of imported goods or export goods, or where the transaction value of the goods is not determinable, the value of such goods shall be determined in accordance with the rules made in this behalf.

*Explanation.*—For the purposes of this section—

(a) “rate of exchange” means the rate of exchange—

- (i) determined by the Board, or
- (ii) ascertained in such manner as the Board may direct,

for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) “foreign currency” and “Indian currency” have the meanings respectively assigned to them in clause (m) and clause (q) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).’.

#### **Amendment of section 27.**

**87.** In section 27 of the Customs Act, in sub-section (1), in clause (b), after the third proviso, the following proviso shall be inserted, namely:—

“Provided also that where the duty becomes refundable as a consequence of judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year or six months, as the case may be, shall be computed from the date of such judgment, decree, order or direction.”.

#### **Amendment of section 28E.**

**88.** In section 28E of the Customs Act, in clause (c), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—For the purposes of this clause, “joint venture in India” means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;’.

#### **Amendment of section 75A.**

**89.** In section 75A of the Customs Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AB and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.”.

## **Omission of Chapter XA.**

**90.** Chapter XA of the Customs Act shall be omitted.

## **Amendment of section 127A.**

**91.** In section 127A of the Customs Act, with effect from the 1st day of June, 2007, for clause (b), the following clause shall be substituted, namely:—

“(b) “case” means any proceeding under this Act or any other Act for the levy, assessment and collection of customs duty, pending before an adjudicating authority on the date on which an application under sub-section (1) of section 127B is made:

**Provided** that when any proceeding is referred back in any appeal or revision, as the case may be, by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;’.

## **Amendment of section 127B.**

**92.** In section 127B of the Customs Act, with effect from the 1st day of June, 2007, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Any importer, exporter or any other person (hereinafter referred to as the applicant in this Chapter) may, in respect of a case, relating to him make an application, before adjudication to the Settlement Commission to have the case settled, in such form and in such manner as may be specified by rules, and containing a full and true disclosure of his duty liability which has not been disclosed before the proper officer, the manner in which such liability has been incurred, the additional amount of customs duty accepted to be payable by him and such other particulars as may be specified by rules including the particulars of such dutiable goods in respect of which he admits short levy on account of misclassification, under-valuation or inapplicability of exemption notification but excluding the goods not included in the entry made under this Act and such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

(a) the applicant has filed a bill of entry, or a shipping bill, in respect of import or export of such goods, as the case may be, and in relation to such bill of entry or shipping bill, a show cause notice has been issued to him by the proper officer;

(b) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and

(c) the applicant has paid the additional amount of customs duty accepted by him along with interest due under section 28AB:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending in the Appellate Tribunal or any court:

Provided also that no application under this sub-section shall be made in relation to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985) has been committed:

Provided also that no application under this sub-section shall be made for the interpretation of the classification of the goods under the Customs Tariff Act, 1975 (51 of 1975).

(1A) Notwithstanding anything contained in sub-section (1), where an application was made under sub-section (1)

before the 1st day of June, 2007 but an order under sub section (1) of section 127C has not been made before the said date, the applicant shall within a period of thirty days from the 1st day of June, 2007 pay the accepted duty liability failing which his application shall be liable to be rejected.”.

### **Substitution of new section for section 127C.**

**93.** For section 127C of the Customs Act, with effect from the 1st day of June, 2007, the following section shall be substituted, namely:—

#### *Procedure on receipt of an application under section 127B.*

“127C. (1) On receipt of an application under section 127B, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with or reject the application, as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection:

Provided that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner of Customs having jurisdiction.

(3) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the Commissioner of Customs having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission:

Provided that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(4) Where a report of the Commissioner called for under sub-section (3) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case:

Provided that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (5) without such report.

(5) After examination of the records and the report of the Commissioner of Customs received under sub-section (3), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (4), and after giving an opportunity to the applicant and to the Commissioner of Customs having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Customs and Commissioner (Investigation) under sub-section (3) or sub-section (4).

(6) An order under sub-section (5) shall not be passed in respect of an application filed on or before the 31st day of May, 2007, later than the 29th February, 2008 and in respect of an application made on or after the 1st day of June, 2007, after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority before whom the proceeding at the time of

making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 127B had been made.

(7) Subject to the provisions of section 32A of the Central Excise Act, 1944 (1 of 1944), the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (5) and, in relation to the passing of such order, the provisions of section 32D of the Central Excise Act, 1944 (1 of 1944) shall apply.

(8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud, or misrepresentation of facts:

Provided that the amount of settlement ordered by the Settlement Commission, shall not be less than the duty liability admitted by the applicant under section 127B.

(9) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the applicant within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

(10) Where a settlement becomes void as provided under sub-section (8), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the proper officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.”.

#### **Amendment of section 127E.**

**94.** In section 127E of the Customs Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—

“Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 127B is made on or after the 1st day of June, 30 2007.”.

#### **Amendment of section 127F.**

**95.** In section 127F of the Customs Act, in sub-section (2), for the brackets and figures “(7)” and “(6)”, the brackets and figures “(5)” and “(4)” shall respectively be substituted with effect from the 1st day of June, 2007.

#### **Amendment of section 127H.**

**96.** In section 127H of the Customs Act, with effect from the 1st day of June, 2007,—

(i) in sub-section (7),—

(a) for the words “or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest”, the words “and also either wholly or in part from the imposition of any penalty and fine” shall be substituted;

(b) after the proviso, the following *Explanation* shall be inserted, namely:—

*“Explanation.*—For the removal of doubts, it is hereby declared that the application filed before the Settlement Commission on or before the 31st day of May, 2007 shall be disposed of as if the amendment in this section had

not come into force.”;

(ii) in sub-section (2), for the words, brackets, figures and letter “sub-section (7) of section 127C within the time specified in such order or within such further time as may be allowed by the Settlement Commission”, the words, brackets, figures and letter “sub-section (5) of section 127C within the time specified in such order” shall be substituted.

**Amendment of section 127J.**

**97.** In section 127J of the Customs Act, for the brackets and figure “(7)”, the brackets and figure “(5)” shall be substituted with effect from the 1st day of June, 2007.

**Amendment of section 127K.**

**98.** In section 127K of the Customs Act, for the brackets and figure “(7)”, the brackets and figure “(5)” shall be substituted with effect from the 1st day of June, 2007.

**Amendment of section 127L.**

**99.** Section 127L of the Customs Act shall be renumbered as sub-section (1) thereof and,—

(i) in sub-section (1) as so renumbered, for the word “Where”, the words, figures and letters “Where, before the 1st day of June, 2007” shall be substituted;

(ii) after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of June, 2007, namely:—

“(2) Where an applicant has made an application under sub-section (1) of section 127B, on or after the 1st day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 127C, such applicant shall not be entitled to apply for settlement under section 127B in relation to any other matter:

Provided that such applicant shall not be prevented from filing an application for settlement if the issue in the subsequent application is, but for the period of dispute and amount, identical to the issue in respect of which the earlier application is pending before the Settlement Commission.”.

**Omission of section 127MA.**

**100.** Section 127MA of the Customs Act shall be omitted with effect from the 1st day of June, 2007.

**Amendment of section 129.**

**101.** In section 129 of the Customs Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) On ceasing to hold office, the President, Vice-President or other Member shall not be entitled to appear, act or plead before the Appellate Tribunal.”.

**Amendment of section 129D.**

**102.** In section 129D of the Customs Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Committee of Chief Commissioners of Customs or Commissioner of Customs, as the case may be, shall



make order under sub-section (1) or sub-section (2) within a period of three months from the date of communication of the decision or order of the adjudicating authority.”;

(ii) in sub-section (4), for the words “three months”, the words “one month” shall be substituted.

**Amendment of section 135.**

**103.** In section 135 of the Customs Act, for sub-section (7), the following sub-section shall be substituted, namely:

—  
“(1) Without prejudice to any action that may be taken under this Act, if any person—

(a) is in relation to any goods in any way knowingly concerned in misdeclaration of value or in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any prohibition for the time being imposed under this Act or any other law for the time being in force with respect to such goods; or

(b) acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111 or section 113, as the case may be; or

(c) attempts to export any goods which he knows or has reason to believe are liable to confiscation under section 113; or

(d) fraudulently avails of or attempts to avail of drawback or any exemption from duty provided under this Act in connection with export of goods,

he shall be punishable, —

(i) in the case of an offence relating to,—

(A) any goods the market price of which exceeds one crore of rupees; or

(B) the evasion or attempted evasion of duty exceeding thirty lakh of rupees; or

(C) such categories of prohibited goods as the Central Government may, by notification in the Official Gazette, specify; or

(D) fraudulently availing of or attempting to avail of drawback or any exemption from duty referred to in clause (of), if the amount of drawback or exemption from duty exceeds thirty lakh of rupees,

with imprisonment for a term which may extend to seven years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for less than one year;

(ii) in any other case, with imprisonment for a term which may extend to three years, or with fine, or with both.”.

**Amendment of section 156.**

**104.** In section 156 of the Customs Act, in sub-section (2), for clause (a), the following clauses shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:

—  
“(a) the manner of determining the transaction value of the imported goods and export goods under sub-section

(1) of section 14;

(aa) the manner of determining the value of imported goods and export goods under sub-section (3) of section 14;”.

### *Customs tariff*

#### **Amendment of First Schedule and Second Schedule.**

**105.** In the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act),—

- (i) the First Schedule shall be amended in the manner specified in the Second Schedule;
- (ii) the Second Schedule shall be amended in the manner specified in the Third Schedule.

### *Excise*

#### **Amendment of section 3.**

**106.** In section 3 of the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act), in sub-section (1),—

- (i) in the proviso, clause (i) shall be omitted;
- (ii) in *Explanation 2*,—
  - (a) clause (i) shall be omitted;
  - (b) for clause (iii), the following clause shall be substituted, namely:—
    - (iii) “Special Economic Zone” has the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005).’.

#### **Amendment of section 11B.**

**107.** In section 11B of the Central Excise Act, in the *Explanation*, in clause (B), after sub-clause (eb), the following sub-clause shall be inserted, namely:—

- “(ec) in case where the duty becomes refundable as a consequence of judgment, decree, order or direction of appellate authority, Appellate Tribunal or any court, the date of such judgment, decree, order or direction ;”.

#### **Amendment of section 23A.**

**108.** In section 23A of the Central Excise Act, in clause (c), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—For the purposes of this clause, “joint venture in India” means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;’.

#### **Amendment of section 31.**

**109.** In section 31 of the Central Excise Act, with effect from the 1 st day of June, 2007, for clause (c), the following clause shall be substituted, namely:—

- (c) “case” means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, pending before an adjudicating authority on the date on which an application under sub-section (1) of section 32E is made:

**Provided** that when any proceeding is referred back in any appeal or revision, as the case may be, by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication or decision, as the case may be, then such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;’.

### **Amendment of section 32A.**

**110.** In section 32A of the Central Excise Act, after the proviso to sub-section (6), the following proviso shall be inserted, namely:—

**“Provided further** that at any stage of the hearing of any such case or matter, referred to in the first proviso, the Chairman may, if he thinks that the case or matter is of such a nature that it ought to be heard by a Bench consisting of three Members, constitute such Bench and if Vice-Chairman is not one of the Members, the senior among the Members shall act as the presiding officer of such Bench.”.

### **Amendment of section 32E.**

**111.** In section 32E of the Central Excise Act, with effect from the 1st day of June, 2007, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) An assessee may, in respect of a case relating to him, make an application, before adjudication, to the Settlement Commission to have the case settled, in such form and in such manner as may be prescribed and containing a full and true disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been derived, the additional amount of excise duty accepted to be payable by him and such other particulars as may be prescribed including the particulars of such excisable goods in respect of which he admits short levy on account of misclassification, undervaluation, inapplicability of exemption notification or CENVAT credit but excluding the goods in respect of which no proper record has been maintained by the assessee in his daily stock register and any such application shall be disposed of in the manner hereinafter provided:

**Provided** that no such application shall be made unless,—

- (a) the applicant has filed returns showing production, clearance and central excise duty paid in the prescribed manner;
- (b) a show-cause notice for recovery of duty issued by the Central Excise Officer has been received by the applicant;
- (c) the additional amount of duty accepted by the applicant in his application exceeds three lakh rupees; and
- (d) the applicant has paid the additional amount of excise duty accepted by him along with interest due under section 11AB:

**Provided further** that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending with the Appellate Tribunal or any court:

**Provided also** that no application under this sub-section shall be made for the interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985 (5 of 1986).

(1A) Notwithstanding anything contained in sub-section (1), where an application was made under sub-section (1), before the 1st day of June, 2007 but an order under sub-section (1) of section 32F has not been made before the said date or payment of amount so ordered by the Settlement Commission under sub-section (1) of section 32F has not been made, the applicant shall within a period of thirty days from the 1st day of June, 2007, pay the accepted duty liability failing which his application shall be liable to be rejected.”.

### **Substitution of new section for section 32F.**

**112.** For section 32F of the Central Excise Act, with effect from the 1st day of June, 2007, the following section shall be substituted, namely:—

*“32F. Procedure on receipt of an application under section 32E.* - (1) On receipt of an application under sub-section (1) of section 32E, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection:

**Provided** that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

(2) A copy of every order under sub-section (1), shall be sent to the applicant and to the Commissioner of Central Excise having jurisdiction.

(3) Where an application is allowed or deemed to have been allowed to be proceeded with under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the Commissioner of Central Excise having jurisdiction and the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission:

**Provided** that where the Commissioner does not furnish the report within the aforesaid period of thirty days, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(4) Where a report of the Commissioner called for under sub-section (3) has been furnished within the period specified in that sub-section, the Settlement Commission may, after examination of such report, if it is of the opinion that any further enquiry or investigation in the matter is necessary, direct, for reasons to be recorded in writing, the Commissioner (Investigation) within fifteen days of the receipt of the report, to make or cause to be made such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of the communication from the Settlement Commission, on the matters covered by the application and any other matter relating to the case:

**Provided** that where the Commissioner (Investigation) does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under sub-section (5) without such report.

(5) After examination of the records and the report of the Commissioner of Central Excise received under sub-section (3), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (4), and after giving an opportunity to the applicant and to the Commissioner of Central Excise having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Central Excise and Commissioner (Investigation) under sub-section (3) or sub-section (4).

(6) An order under sub-section (5) shall not be passed in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007, after nine months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 32E had been made.

(7) Subject to the provisions of section 32A, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (5) and, in relation to the passing of such order, the provisions of section 32D shall apply.

(8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor and it shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud, or misrepresentation of facts:

**Provided** that the amount of settlement ordered by the Settlement Commission shall not be less than the duty liability admitted by the applicant under section 32E.

(9) Where any duty, interest, fine and penalty payable in pursuance of an order under sub-section (5), is not paid by the assessee within thirty days of receipt of a copy of the order by him, the amount which remains unpaid, shall be recovered along with interest due thereon, as the sums due to the Central Government by the Central Excise Officer having jurisdiction over the assessee in accordance with the provisions of section 11.

(10) Where a settlement becomes void as provided under sub-section (8), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Central Excise Officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.”.

#### **Amendment of section 32H**

**113.** In section 32H of the Central Excise Act, after the proviso, the following proviso shall be inserted with effect from the 1<sup>st</sup> day of June, 2007, namely:—

“**Provided further** that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 32E is made on or after the 1<sup>st</sup> day of June, 2007.”.

**Amendment of section 32-I.**

**114.** In section 32-I of the Central Excise Act, in sub-section (2), for the brackets and figures “(7)” and “(6)”, the brackets and figures “(5)” and “(4)” shall respectively be substituted with effect from the 1<sup>st</sup> day of June, 2007.

**Amendment of section 32K.**

**115.** In section 32K of the Central Excise Act, with effect from the 1<sup>st</sup> day of June, 2007,—

(i) in sub-section (1),—

(a) for the words “or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest” the words “and also either wholly or in part from the imposition of any penalty and fine” shall be substituted;

(b) after the proviso, the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that applications filed before the Settlement Commission on or before the 31<sup>st</sup> day of May, 2007 shall be disposed of as if the amendment in this section had not come into force.”;

(ii) in sub-section (2), for the words, brackets, figures and letter “sub-section (7) of section 32F within the time specified in such order or within such further time as may be allowed by the Settlement Commission”, the words, brackets, figures and letter “sub-section (5) of section 32F within the time specified in such order” shall be substituted.

**Amendment of section 32M.**

**116.** In section 32M of the Central Excise Act, for the brackets and figure “(7)”, the brackets and figure “(5)” shall be substituted with effect from the 1<sup>st</sup> day of June, 2007.

**Amendment of section 32N.**

**117.** In section 32N of the Central Excise Act, for the brackets and figure “(7)”, the brackets and figure “(5)” shall be substituted with effect from the 1<sup>st</sup> day of June, 2007.

**Amendment of section 32-O.**

**118.** Section 32-O of the Central Excise Act shall be renumbered as sub-section (1) thereof and,—

(i) in sub-section (1) as so renumbered, for the word “Where”, the words, figures and letters “Where, before the 1<sup>st</sup> day of June, 2007” shall be substituted;

(ii) after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1<sup>st</sup> day of June, 2007, namely:—

“(2) Where an assessee has made an application under sub-section (1) of section 32E, on or after the 1<sup>st</sup> day of June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 32F, such assessee shall not be entitled to apply for settlement under section 32E in relation to any other matter:

**Provided** that such assessee shall not be prevented from filing an application for settlement if the issue in the subsequent application is, but for the period of dispute and amount, identical to the issue in respect of which the earlier application is pending before the Settlement Commission.”.

**Omission of section 32PA.**

**119.** Section 32PA of the Central Excise Act shall be omitted with effect from the 1<sup>st</sup> day of June, 2007.

**Amendment of section 35E.**

**120.** In section 35E of the Central Excise Act,—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Committee of Chief Commissioners of Central Excise or Commissioner of Central Excise, as the case may be, shall make order under sub-section (1) or sub-section (2) within a period of three months from the date of communication of the decision or order of the adjudicating authority.”;

(ii) in sub-section (4), for the words “three months”, the words “one month” shall be substituted.

#### **Amendment of section 35F.**

**121.** In section 35F of the Central Excise Act, after the second proviso, the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of this section “duty demanded” shall include,—

- (i) amount determined under section 11D;
- (ii) amount of erroneous CENVAT credit taken;
- (iii) amount payable under rule 57CC of Central Excise Rules, 1944;
- (iv) amount payable under rule 6 of CENVAT Credit Rules, 2001 or CENVAT Credit Rules, 2002 or CENVAT Credit Rules, 2004;
- (v) interest payable under the provisions of this Act or the rules made thereunder.’.

#### **Amendment of section 37.**

**122.** In section 37 of the Central Excise Act,—

- (i) in sub-section (4), for the words “ten thousand rupees”, the words “two thousand rupees” shall be substituted;
- (ii) in sub-section (5), for the words “ten thousand rupees”, the words “two thousand rupees” shall be substituted.

#### **Amendment of Third Schedule.**

**123.** In the Central Excise Act,—

- (i) the Third Schedule shall be amended in the manner specified in Part I of the Fourth Schedule; and
- (ii) the Third Schedule except as amended in clause (i) shall also be amended with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, in the manner specified in Part II of the Fourth Schedule.

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### CHAPTER V SERVICE TAX

#### **Amendment of Act 32 of 1994.**

**125.** In the Finance Act, 1994,—

(A) in section 65, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) in clause (12),—

(a) in sub-clause (a),—

- (i) for the words “or any other person”, the words “or commercial concern” shall be substituted;
- (ii) in item (i), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—For the purposes of this item, “financial leasing” means a lease transaction where—

- (i) contract for lease is entered into between two parties for leasing of a specific asset;
- (ii) such contract is for use and occupation of the asset by the lessee;
- (iii) the lease payment is calculated so as to cover the full cost of the asset together with the interest

charges; and

(iv) the lessee is entitled to own, or has the option to own, the asset at the end of the lease period after making the lease payment;’;

(iii) in item (v), for the words “custodial, depository and trust services, but does not include cash management”, the words “custodial, depository and trust services” shall be substituted;

(2) for clause (20), the following clause shall be substituted, namely:—

‘(20) “cab” means—

(i) a motorcab, or

(ii) a maxicab, or

(iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward:

**Provided** that the maxicab referred to in sub-clause (ii) or motor vehicle referred to in sub-clause (iii) which is rented for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre, shall not be included within the meaning of cab;’;

(3) after clause (36a), the following clauses shall be inserted, namely:—

‘(36b) “design services” includes services provided in relation to designing of furniture, consumer products, industrial products, packages, logos, graphics, websites and corporate identity designing and production of three dimensional models;

(36c) “development and supply of content” includes development and supply of mobile value added services, music, movie clips, ring tones, wall paper, mobile games, data, whether or not aggregated, information, news and animation films;’;

(4) in clause (40), for the words “sports or any other event”, the words “sports, marriage or any other event” shall be substituted;

(5) clause (60) shall be omitted;

(6) in clause (64), the following *Explanation* shall be inserted at the end, namely:—

‘*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this clause, “goods” includes computer software;’;

(7) for clause (65), the following clause shall be substituted, namely:—

‘(65) “management or business consultant” means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation or business in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management;’;

(8) after clause (66), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this clause, social function includes marriage;’;

(9) after clause (67), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this clause, “social function” includes marriage;’;

(10) after clause (77a), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this clause, “social function” includes marriage;’;

(11) after clause (90), the following clause shall be inserted, namely:—

‘(90a) “renting of immovable property” includes renting, letting, leasing, licensing or other similar arrangements of immovable property for use in the course or furtherance of business or commerce but does not include —

(i) renting of immovable property by a religious body or to a religious body; or

- (ii) renting of immovable property to an educational body, imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre;

*Explanation.*—For the purposes of this clause, “for use in the course or furtherance of business or commerce” includes use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple-use buildings;’;

(12) clause (104) shall be omitted;

(13) in clause (105),—

(a) sub-clauses (b) and (c) shall be omitted;

(b) in sub-clause (g), for the words “but not in the discipline of computer hardware engineering or computer software engineering”, the words “including the discipline of computer hardware engineering but excluding the discipline of computer software engineering” shall be substituted;

(c) in sub-clause (k), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, recruitment or supply of manpower includes services in relation to prerecruitment screening, verification of the credentials and antecedents of the candidate and authenticity of documents submitted by the candidate;’;

(d) for sub-clause (r), the following sub-clause shall be substituted, namely:—

“(r) to a client, by a management or business consultant in connection with the management of any organisation or business, in any manner;”;

(e) sub-clauses (zd), (ze), (zf) and (zg) shall be omitted;

(f) in sub-clause (zm), for the words “or any other person”, the words “or commercial concern” shall be substituted;

(g) in sub-clause (zzzm), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

*Explanation 2.*—For the purposes of this sub-clause, “print media” means,—

(i) “newspaper” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);

(ii) “book” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;’;

(h) after sub-clause (zzzw), the following sub-clauses shall be inserted, namely:—

‘(zzzx) to any person, by the telegraph authority in relation to telecommunication service;

(zzzy) to any person, by any other person in relation to mining of mineral, oil or gas;

(zzzz) to any person, by any other person in relation to renting of immovable property for use in the course or furtherance of business or commerce.

*Explanation 1.*—For the purposes of this sub-clause, “immovable property” includes—

(i) building and part of a building, and the land appurtenant thereto;

(ii) land incidental to the use of such building or part of a building;

(iii) the common or shared areas and facilities relating thereto; and

(iv) in case of a building located in a complex or an industrial estate, all common areas and facilities relating thereto, within such complex or estate, but does not include-

(a) vacant land solely used for agriculture, aquaculture, farming, forestry, animal husbandry, mining purposes;

(b) vacant land, whether or not having facilities clearly incidental to the use of such vacant land;

(c) land used for educational, sports, circus, entertainment and parking purposes; and

(d) building used solely for residential purposes and buildings used for the purposes of accommodation, including hotels, hostels, boarding houses, holiday accommodation, tents, camping facilities.



*Explanation 2.*—For the purposes of this sub-clause, an immovable property partly for use in the course or furtherance of business or commerce and partly for residential or any other purposes shall be deemed to be immovable property for use in the course or furtherance of business or commerce;

(zzzza) to any person, by any other person in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.

*Explanation.*—For the purposes of this sub-clause, “works contract” means a contract wherein,

(i) transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods, and

(ii) such contract is for the purposes of carrying out,—

(a) erection, commissioning or installation of plant, machinery, equipment or structures, whether pre-fabricated or otherwise, installation of electrical and electronic devices, plumbing, drain laying or other installations for transport of fluids, heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work, thermal insulation, sound insulation, fire proofing or water proofing, lift and escalator, fire escape staircases or elevators; or

(b) construction of a new building or a civil structure or a part thereof, or of a pipeline or conduit, primarily for the purposes of commerce or industry; or

(c) construction of a new residential complex or a part thereof; or

(d) completion and finishing services, repair, alteration, renovation or restoration of, or similar services, in relation to (b) and (c); or

(e) turnkey projects including engineering, procurement and construction or commissioning (EPC) projects;

(zzzzb) to any person, by any other person in relation to development and supply of content for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services;

(zzzzc) to any person, by any other person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm), in relation to asset management including portfolio management and all forms of fund management;

(zzzzd) to any person, by any other person in relation to design services,

but does not include service provided by-

(i) an interior decorator referred to in sub-clause (q); and

(ii) a fashion designer in relation to fashion designing referred to in sub-clause (zv);'

(14) after clause (109), the following clause shall be inserted, namely:—

(109a) “telecommunication service” means service of any description provided by means of any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence or information of any nature, by wire, radio, optical, visual or other electro-magnetic means or systems, including the related transfer or assignment of the right to use capacity for such transmission, emission or reception by a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of the Indian Telegraph Act, 1885 and includes—

(i) voice mail, data services, audio tax services, video tax services, radio paging;

(ii) fixed telephone services including provision of access to and use of the public switched telephone network for the transmission and switching of voice, data and video, inbound and outbound telephone service to and from national and international destinations;

(iii) cellular mobile telephone services including provision of access to and use of switched or non-switched networks for the transmission of voice, data and video, inbound and outbound roaming service to and from national and international destinations;

(iv) carrier services including provision of wired or wireless facilities to originate, terminate or transit

calls, charging for interconnection, settlement or termination of domestic or international calls, charging for jointly used facilities including pole attachments, charging for the exclusive use of circuits, a leased circuit or a dedicated link including a speech circuit, data circuit or a telegraph circuit;

- (v) provision of call management services for a fee including call waiting, call forwarding, caller identification, three-way calling, call display, call return, call screen, call blocking, automatic call-back, call answer, voice mail, voice menus and video conferencing;
- (vi) private network services including provision of wired or wireless telecommunication link between specified points for the exclusive use of the client;
- (vii) data transmission services including provision of access to wired or wireless facilities and services specifically designed for efficient transmission of data; and
- (viii) communication through facsimile, pager, telegraph and telex, but does not include service provided by-
  - (a) any person in relation to on-line information and database access or retrieval or both referred to in sub-clause (zh) of clause (105);
  - (b) a broadcasting agency or organisation in relation to broadcasting referred to in sub-clause (zk) of clause (105); and
  - (c) any person in relation to internet telephony referred to in sub-clause (zzzu) of clause (105);

(B) for section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the following section shall be substituted, namely:—

“66. There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve per cent of the value of taxable services referred to in sub-clauses (a), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zb), (zc), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz), (zza), (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzk), (ztl), (zzm), (zzn), (zzo), (zzp), (zzq), (zzr), (zzs), (zzt), (zzu), (zzv), (zzw), (zzx), (zzy), (zzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg), (zzzh), (zzzi), (zzzj), (zzzk), (zzzl), (zzzm), (zzzn), (zzzo), (zzzp), (zzzq), (zzzr), (zzzs), (zzzt), (zzzu), (zzzv), (zzzw), (zzzx), (zzzy), (zzzz), (zzzza), (zzzzb), (zzzzc) and (zzzzd) of clause (105) of section 65 and collected in such manner as may be prescribed.”;

(C) in section 70, in sub-section (1), for the words “as may be prescribed”, the words “and with such late fee not exceeding two thousand rupees, for delayed furnishing of return, as may be prescribed” shall be substituted;

(D) in section 83,—

- (i) after the figures “14,”, the figures and letters “14AA,” shall be inserted;
- (ii) after the figures and letter “37D”, the figures and letter “38A” shall be inserted;

(E) in section 86,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) (i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Chapter.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.”;

(b) in sub-section (2), for the word “Board”, the words “Committee of Chief Commissioners of Central Excise” shall be substituted;

(c) for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order.”;

(d) in sub-section (3), for the words “Board or by the Commissioner of Central Excise”, the words “Committee of Chief Commissioners or the Committee of Commissioners” shall be substituted;

(F) in section 94, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

“(c) the form, manner and frequency of the returns to be furnished under sub-sections (1) and (2) and the late fee for delayed furnishing of return under sub-section (1) of section 70;”.

(G) in section 95, after sub-section (1C), the following sub-section shall be inserted, namely:—

“(1D) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2007, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty :

**Provided** that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2007 receives the assent of the President.”;

(H) in section 96A, in clause (b), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*- For the purposes of this clause, “joint venture in India” means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a non-resident having substantial interest in such arrangement;’.

## CHAPTER VI

### SECONDARY AND HIGHER EDUCATION CESS

#### Secondary and Higher Education Cess.

**126.** (1) Without prejudice to the provisions of sub-section (12) of section 2, there shall be levied and collected, in accordance with the provisions of this Chapter as surcharge for purposes of the Union, a cess to be called the Secondary and Higher Education Cess, to fulfil the commitment of the Government to provide and finance secondary and higher education.

(2) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise, such sums of money of the Secondary and Higher Education Cess levied under sub-section (12) of section 2 and this Chapter for the purposes specified in sub-section (1) as it may consider necessary.

#### Definitions.

**127.** The words and expressions used in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944), the Customs Act, 1962 (52 of 1962) or Chapter V of the Finance Act, 1994 (32 of 1994), shall have the meanings respectively assigned to them in those Acts or Chapter, as the case may be.

#### Secondary and Higher Education Cess on excisable goods.

**128.** (1) The Secondary and Higher Education Cess levied under section 126, in the case of goods specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), being goods manufactured or produced, shall be a duty of excise (in this section referred to as the Secondary and Higher Education Cess on excisable goods), at the rate of one per cent, calculated on the aggregate of all duties of excise (including special duty of excise or any other duty of excise but excluding Education Cess chargeable under section 93 of the Finance (No. 2) Act, 2004 (23 of 2004) and Secondary and Higher Education Cess on excisable goods) which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under the provisions of the Central Excise Act, 1944 (1 of 1944) or under any other law for the time being in force.

(2) The Secondary and Higher Education Cess on excisable goods shall be in addition to any other duties of excise chargeable on such goods, under the Central Excise Act, 1944 (1 of 1944) or any other law for the time being in force and the Education Cess chargeable under section 93 of the Finance (No. 2) Act, 2004 (23 of 2004).

(3) The provisions of the Central Excise Act, 1944 (1 of 1944) and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on excisable goods as they apply in relation to the levy and collection of the duties of excise on such goods under the Central Excise Act, 1944 or the rules made thereunder, as the case may be.

#### Secondary and Higher Education Cess on imported goods.

**129.** (1) The Secondary and Higher Education Cess levied under section 126, in the case of goods specified in

the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), being goods imported into India, shall be a duty of customs (in this section referred to as the Secondary and Higher Education Cess on imported goods), at the rate of one per cent, calculated on the aggregate of duties of customs which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under section 12 of the Customs Act, 1962 (52 of 1962) and any sum chargeable on such goods under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including—

- (a) the additional duty referred to in sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);
- (b) the safeguard duty referred to in sections 8B and 8C of the Customs Tariff Act, 1975 (51 of 1975);
- (c) the countervailing duty referred to in section 9 of the Customs Tariff Act, 1975 (51 of 1975);
- (d) the anti-dumping duty referred to in section 9A of the Customs Tariff Act, 1975 (23 of 2004); and
- (e) the Education Cess chargeable under section 94 of the Finance (No. 2) Act, 2004 (23 of 2004) and Secondary and Higher Education Cess on imported goods.

(2) The Secondary and Higher Education Cess on imported goods shall be in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962 (52 of 1962) or any other law for the time being in force and the Education Cess chargeable under section 94 of the Finance (No. 2) Act, 2004.

(3) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods under the Customs Act, 1962 or the rules or the regulations made thereunder, as the case may be.

#### **Secondary and Higher Education Cess on taxable services.**

**130.** (1) The Secondary and Higher Education Cess levied under section 126, in the case of all services which are taxable services, shall be a tax (in this section referred to as the Secondary and Higher Education Cess on taxable services) at the rate of one per cent, calculated on the tax which is levied and collected under section 66 of the Finance Act, 1994 (32 of 1994).

(2) The Secondary and Higher Education Cess on taxable services shall be in addition to the tax chargeable on such taxable services, under Chapter V of the Finance Act, 1994 (32 of 1994) and the Education Cess chargeable under section 95 of the Finance (No. 2) Act, 2004 (23 of 2004).

(3) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Secondary and Higher Education Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules made thereunder, as the case may be.

#### **Amendment of Act 23 of 2004.**

**131.** In the Finance (No. 2) Act, 2004,—

- (1) in section 93, in sub-section (1), for the words “excluding Education Cess”, the words “excluding Education Cess, and Secondary and Higher Education Cess levied under section 126 of the Finance Act, 2007” shall be substituted;
- (2) in section 94, in sub-section (1), in clause (d), for the words “Education Cess”, the words “Education Cess, and Secondary and Higher Education Cess levied under section 126 of the Finance Act, 2007” shall be substituted.

### **CHAPTER VII**

#### **MISCELLANEOUS**

#### **Amendment of section 14 of Act 74 of 1956.**

**132.** In the Central Sales Tax Act, 1956, in section 14, for clause (iid), the following clause shall be substituted,

namely:—

'(iid) Aviation Turbine Fuel sold to an aircraft with a maximum take-off mass of less than forty thousand kilograms operated by scheduled airlines.

*Explanation.*—For the purposes of this clause, “scheduled airlines” means the airlines which have been permitted by the Central Government to operate any Scheduled air transport service.'

#### **Amendment of First Schedule to Act 58 of 1957.**

**133.** In the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the First Schedule shall be amended in the manner specified in the Sixth Schedule.

#### **Amendment of section 94 of Act, 18 of 2005.**

**134.** In Chapter VII of the Finance Act, 2005, in section 94, with effect from the 1st day of June, 2007,—

(a) in clause (5), the words “and includes an office or establishment of the Central Government or the Government of a State” shall be omitted;

(b) in clause (8),—

(i) in sub-clause (a), in item (i), for the words “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(ii) in sub-clause (b), in item (i), for the words “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted.

#### **DECLARATION UNDER THE PROVISIONAL COLLECTION OF TAXES ACT, 1931**

It is hereby declared that it is expedient in the public interest that the provisions of clauses 105(ii), 123(i), 124 and 126 read with clauses 128 and 129 (excluding Secondary and Higher Education Cess on taxable services) of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

#### **THE FIRST SCHEDULE**

(See section 2)

#### *PART I*

#### INCOME-TAX

#### *Paragraph A*

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

#### *Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,00,000                          | <i>Nil;</i>  |
| (2) where the total income exceeds Rs. 1,00,000 but does not exceed Rs. 1,50,000 | 10 per cent of the amount by which the total income exceeds Rs. 1,00,000;                        |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 5,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 1,50,000;  |
| (4) where the total income exceeds Rs. 2,50,000                                  | Rs. 25,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 2,50,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

#### *Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,35,000                          | <i>Nil</i> ;   |
| (2) where the total income exceeds Rs. 1,35,000 but does not exceed Rs. 1,50,000 | 10 per cent of the amount by which the total income exceeds Rs. 1,35,000;                        |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 1,500 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 1,50,000;  |
| (4) where the total income exceeds Rs. 2,50,000                                  | Rs. 21,500 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 2,50,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,85,000                          | <i>Nil</i> ;   |
| (2) where the total income exceeds Rs. 1,85,000 but does not exceed Rs. 2,50,000 | 20 per cent of the amount by which the total income exceeds Rs. 1,85,000;                        |
| (3) where the total income exceeds Rs. 2,50,000                                  | Rs. 13,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 2,50,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax;
- (ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs.10,000                         | 10 per cent of the total income;  |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs.10,000;  |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 20,000. |

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income	30 per cent.
----------------------------------	--------------

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent, of such income-tax.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company at the rate of ten per cent of such income-tax;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent.

*PART II*

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

*Rate of income-tax*

1. In the case of a person other than a company—

(a) where the person is resident in India—

(i) on income by way of interest other than

10 per cent.;

“Interest on securities”

- (ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

## Rate of income-tax

- (iii) on income by way of winnings from horse races 30 per cent.;
- (iv) on income by way of insurance commission 10 per cent.;
- (v) income by way of interest payable on— 10 per cent.;
- (A) any debentures or securities, other than a security of the Central or State Government, for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;
- (B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder
- (vi) on any other income 20 per cent.;
- (b) where the person is not resident in India—
- (i) in the case of a non-resident Indian—
- (A) on any investment income 20 per cent.;
- (B) on income by way of long-term capital gains referred to in section 115E 10 per cent.;
- (C) on income by way of short-term capital gains referred to in section 111A 10 per cent.;
- (D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent.;
- (E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;
- (F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—
- (I) where the agreement is made on or after the 1<sup>st</sup> day of June, 1997 but before the 1<sup>st</sup> day of June, 2005 20 per cent.;
- (II) where the agreement is made on 10 per cent.; or after the 1<sup>st</sup> day of June, 2005 10 per cent.;
- (G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian



- concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
- (I) where the agreement is made on or after the 1<sup>st</sup> day of June, 1997 but before the 1<sup>st</sup> day of June, 2005 20 per cent.;
  - (II) where the agreement is made on or after the 1<sup>st</sup> day of June, 2005 10 per cent.;
- (H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
- (I) where the agreement is made on or after the 1<sup>st</sup> day of June, 1997 but before the 1<sup>st</sup> day of June, 2005 20 per cent.;
  - (II) where the agreement is made on or after the 1<sup>st</sup> day of June, 2005 10 per cent.;
- (I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;
- (J) on income by way of winnings from horse races 30 per cent.;
- (K) on the whole of the other income 30 per cent.;
- (ii) in the case of any other person—
- (A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;
  - (B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income- tax Act, to a person resident in India—
    - (I) where the agreement is made on or after the 1<sup>st</sup> day of June, 1997 but before the 1<sup>st</sup> day of June, 2005 20 per cent.;
    - (II) where the agreement is made on or after the 1<sup>st</sup> day of June, 2005 10 per cent.;
  - (C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
    - (I) where the agreement is made on or after the 1<sup>st</sup> day of June, 1997 but before the 1<sup>st</sup> day of June, 2005 20 per cent.;
    - (II) where the agreement is made on or after the 1<sup>st</sup> day of June, 2005 10 per cent.;

- (D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
- (I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;
  - (II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;
- (E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;
- (F) on income by way of winnings from horse races 30 per cent.;
- (G) on income by way of short-term capital gains referred to in section 111A 10 per cent.;
- (H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent.;
- (I) on the whole of the other income 30 per cent.;

2. In the case of a company—

(a) where the company is a domestic company—

- (i) on income by way of interest other than “Interest on securities” 20 per cent.;
- (ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;
- (iii) on income by way of winnings from horse Races 30 per cent.;
- (iv) on any other income 20 per cent.;

(b) where the company is not a domestic company—

- (i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;
- (ii) on income by way of winnings from horse Races 30 per cent.;
- (iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;
- (iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section

115A of the Income-tax Act, to a person resident in India—

- |   |               |
|---|---------------|
| (A) where the agreement is made before the 1st day of June, 1997  | 30 per cent.; |
| (B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005  | 20 per cent.; |
| (C) where the agreement is made on or after the 1st day of June, 2005   | 10 per cent.; |
| (v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy— |               |
| (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976   | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997  | 30 per cent.; |
| (C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005  | 20 per cent.; |
| (D) where the agreement is made on or after the 1st day of June, 2005   | 10 per cent.; |
| (vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—  |               |
| (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976  | 50 per cent.; |
| (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997  | 30 per cent.; |
| (C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005  | 20 per cent.; |
| (D) where the agreement is made on or after the 1st day of June, 2005   | 10 per cent.; |
| (vii) on income by way of short-term capital gains referred to in section 111A  | 10 per cent.; |
| (viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]   | 20 per cent.; |
| (ix) on any other income  | 40 per cent.  |

*Explanation.*—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

*Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of—

- (A) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—
- (i) in the case of every individual, Hindu undivided family, association of persons and body of individuals,

whether incorporated or not, at the rate of ten per cent, of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(ii) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent, of such tax;

(iii) in the case of every firm at the rate of ten per cent, of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every domestic company at the rate of ten per cent, of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent, of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

### PART III

#### RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed at the following rate or rates:—

#### Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

#### Rates of income-tax

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,00,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,10,000 but does not exceed Rs. 1,50,000 | 10 per cent, of the amount by which the total income exceeds Rs. 1,10,000;                 |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 5,000 plus 20 per cent, of the amount by which the total income exceeds Rs. 1,50,000;  |
| (4) where the total income exceeds Rs. 2,50,000                                  | Rs. 25,000 plus 30 per cent, of the amount by which the total income exceeds Rs. 2,50,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

#### Rates of income-tax

- |   |  |
|---|--|
| (1) where the total income does not exceed Rs. 1,45,000 | Nil;   |
| (2) where the total income exceeds Rs. 1,45,000 but     | 10 per cent, of the amount by which the total income |

- |  |   |
|--|---|
| does not exceed Rs. 1,50,000   | exceeds Rs. 1,45,000;   |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 500 <i>plus</i> 20 per cent, of the amount by which the total income exceeds Rs. 1,50,000;    |
| (4) where the total income exceeds Rs. 2,50,000                                  | Rs. 20,500 <i>plus</i> 30 per cent, of the amount by which the total income exceeds Rs. 2,50,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 1,95,000                            | <i>Nil</i> ;  |
| (2) where the total income exceeds Rs. 1,95,000 but does not exceeds Rs. 2,50,000; | 20 per cent, of the amount by which the total income exceed Rs. 1,95,000                          |
| (3) where the total income exceeds Rs. 2,50,000                                    | Rs. 11,000 <i>plus</i> 30 per cent, of the amount by which the total income exceeds Rs. 2,50,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112 shall —

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent, of such income-tax;
- (ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent, of such income-tax:

**Provided** that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

*Paragraph B*

In the case of every co-operative society, —

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;  |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income	30 per cent.
----------------------------------	--------------

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax:

**Provided** that in the case of every firm having a total income exceeding one crore rupees, the total amount

payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*PART IV*

[See section 2(12)(c)]

**RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME**

*Rule 1.*—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from other sources” and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

*Rule 2.*—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver

of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

*Rule 3.*—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

*Rule 4.*—Notwithstanding anything contained in any other provisions of these rules, in a case—

- (a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;
- (b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;
- (c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

*Rule 5.*—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

*Rule 6.*—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income :

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

*Rule 7.*—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

*Rule 8.*—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2007, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st

day of April, 2006,

- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2007.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2008, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of



April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2008.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

*Rule 9.*—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

*Rule 10.*—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

*Rule 11.*—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

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