

A Bill to give effect to the financial proposals of the Central Government for the financial year 2003-2004.

Be it enacted by Parliament in the Fifty-fourth 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, 2003.

(2) Save as otherwise provided in this Act, sections 2 to 96 [except clause (b) of section 85] shall be deemed to have come into force on the 1st day of April, 2003.

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 the 1st day of April, 2003, 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 fifty thousand 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 fifty thousand 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 fifty thousand 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 the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, 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 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 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 the amount of income-tax computed in accordance with the provisions of section 113 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 of the Finance Act of the year in which the search is initiated under section 132 or requisition is made under section 132A of the Income-tax Act :

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBB, 115E and 115JB 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 at the rate of five 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 two and one-half 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, 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 rupees eight hundred and fifty thousand rupees;
- (b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such tax;
- (c) 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.

(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 rupees eight hundred and fifty thousand rupees;
- (b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such tax;
- (c) 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.

(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 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 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, 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 eight hundred and fifty thousand rupees;
- (b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such "advance tax";
- (c) 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".

(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 fifty 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 fifty 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 fifty 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 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) 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, 2003, 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 the Income-tax Act,—

- (a) in clause (24), in sub-clause (xi), for the word, brackets and figures “clause (vii)”, the word, brackets, figure and letter “clause (va)” shall be substituted;
- (b) in clause (42A), in *Explanation 1*, in clause (i), after sub-clause (g), the following sub-clauses shall be inserted with effect from the 1st day of April, 2004, namely:—
 - “(h) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;
 - (ha) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;”.

Amendment of section 6.

4. In section 6 of the Income-tax Act, for clause (6), the following clause shall be substituted with effect from the 1st day of April, 2004, namely:—

‘(6) A person is said to be “not ordinarily resident” in India in any previous year if such person is—

- (a) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or
- (b) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less.’.

Amendment of section 9.

5. In section 9 of the Income-tax Act, in sub-section (1), in clause (i), the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted with effect from the 1st day of April, 2004, namely:—

‘*Explanation 2.*—For the removal of doubts, it is hereby declared that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

- (a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or
- (b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

- (c) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business.

Explanation 3.—For the purposes of the foregoing proviso, a broker, general commission agent or any other agent (hereafter in this section referred to as the commission agent) shall be deemed to have an independent status where such commission agent does not work mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control as that non-resident.’.

Amendment of section 10.

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

- (a) in clause (6C), for the words “by way of fees”, the words “by way of royalty or fees” shall be substituted with effect from the 1st day of April, 2004;
- (b) in clause (10C), with effect from the 1st day of April, 2004,—
- (i) in the opening portion, for the words “any amount received by an employee of”, the words “any amount received or receivable by an employee of” shall be substituted;
- (ii) for the words “at the time of his voluntary retirement”, the words “on his voluntary retirement” shall be substituted;
- (c) for clause (10D), the following shall be substituted with effect from the 1st day of April, 2004, namely :—
- ‘(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—
- (a) any sum received under sub-section (3) of section 80DD or sub-section (3) of section 80DDA; or
- (b) any sum received under a Keyman insurance policy; or
- (c) any sum received under an insurance policy in respect of which the premium paid in any of the years during the term of the policy exceeds twenty per cent of the actual capital sum assured:
- Provided** that the provisions of this sub-clause shall not apply to any sum received on the death of a person:
- Provided further** that for the purpose of calculating the actual capital sum assured under this sub-clause, effect shall be given to the *Explanation* to sub-section (2A) of section 88.
- Explanation.*—For the purposes of this clause, “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person;’;
- (d) in clause (15), in sub-clause (iv), in item (g), for the words “a loan agreement approved by the Central Government”, the words, figures and letters “a loan agreement approved by the Central Government before the 1st day of June, 2003” shall be substituted with effect from the 1st day of April, 2004;
- (e) in clause (23BBD), for the words, figures and letters “three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004”, 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” shall be substituted with effect from the 1st day of April, 2004;
- (f) in clause (23D), in the opening portion, for the words “any income of”, the words, figures and letter “subject to the provisions of Chapter XII-E, any income of” shall be substituted with effect from the 1st day of April, 2004;
- (g) in clause (23EB), for the words “Credit Guarantee Fund Trust for Small Scale Industries”, the words “Credit Guarantee Fund Trust for Small Industries” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

- (h) in clause (23FA), for the word “dividends”, the words, figures and letter “dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004;
- (i) in clause (23G),—
- (i) for the word “dividends”, the words, figures and letter “dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004;
- (ii) after the words, brackets, figures and letters “housing project referred to in sub-section (10) of section 80-IB”, the words “or a hotel project or a hospital project” shall be inserted with effect from the 1st day of April, 2004;
- (iii) In *Explanation 1*,—
- (A) in clause (a), for the portion beginning with the words “in the business of” and ending with the words “any infrastructure facility”, the words “in the business referred to in this clause” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;
- (B) in clause (b), for the portion beginning with the words “in the business of” and ending with the words “any infrastructure facility”, the words “in the business referred to in this clause” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;
- (C) After clause (f), the following clauses shall be inserted with effect from the 1st day of April, 2004, namely :—
- ‘(g) “hotel project” means a project for constructing a hotel of not less than three-star category as classified by the Central Government;
- (h) “hospital project” means a project for constructing a hospital with at least one hundred beds for patients.’;
- (j) after clause (26BB), the following shall be inserted with effect from the 1st day of April, 2004, namely :—
- ‘(26BBB) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.
- Explanation.*—For the purposes of this clause, “ex-servicemen” means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation.’;
- (k) after clause (32), the following clause shall be inserted, namely :—
- “(33) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) and where the transfer of such asset takes place on or after the 1st day of April, 2002;”;
- (l) after clause (33) as so inserted, the following clauses shall be inserted with effect from the 1st day of April, 2004, namely :—
- ‘(34) Any income by way of dividends referred to in section 115-O;
- (35) any income by way of,—
- (a) income received in respect of the units of a Mutual Fund specified under clause (23D); or
- (b) income received in respect of units from the Administrator of the specified undertaking; or
- (c) income received in respect of units from the specified company:
- Provided** that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

Explanation.—For the purposes of this clause,—

- (a) “Administrator” means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);
- (b) “specified company” means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(36) any income arising from the transfer of a long-term capital asset, being equity share in a company listed in a recognized stock exchange in India and acquired on or after the 1st day of March, 2003 but before the 1st day of March, 2004.’.

Amendment of section 10A.

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

- (a) in sub-section (4), for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-sections (1) and (1A)” shall be substituted;
- (b) in sub-section (5), for the word, brackets and figure “sub-section (1)”, the words “this section” shall be substituted;
- (c) after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely :—

“(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

- (a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and
- (b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.”;
- (c) sub-sections (9) and (9A) shall be omitted with effect from the 1st day of April, 2004;
- (d) *Explanation 1* shall be omitted with effect from the 1st day of April, 2004;
- (e) after *Explanation 3*, the following *Explanation* shall be inserted at the end with effect from the 1st day of April, 2004, namely :—

‘*Explanation 4.*—For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.’.

Amendment of section 10B.

8. In section 10B of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (a) after sub-section (7), the following sub-section shall be inserted, namely :—

“(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

 - (a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and
 - (b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.”;
- (b) sub-sections (9) and (9A) shall be omitted;
- (c) *Explanation 1* shall be omitted;
- (d) after *Explanation 3*, the following *Explanation* shall be inserted at the end, namely :—

‘*Explanation 4.*—For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.’.

Amendment of section 10C.

9. In section 10C of the Income-tax Act, after sub-section (6) and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely :—

“**Provided** that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.”.

Amendment of section 11.

10. In section 11 of the Income-tax Act, in sub-section (3A), after the proviso, the following proviso shall be inserted, namely :—

“**Provided further** that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (d) of sub-section (3), in the year in which such trust or institution was dissolved.”.

Amendment of section 16.

11. In section 16 of the Income-tax Act, for clause (i), the following clause shall be substituted with effect from the 1st day of April, 2004, namely :—

“(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(A) does not exceed five lakh rupees, a deduction of a sum equal to forty per cent of the salary or thirty thousand rupees, whichever is less;

(B) exceeds five lakh rupees, a deduction of a sum of twenty thousand rupees;”.

Amendment of section 30.

12. In section 30 of the Income-tax Act, after clause (c), the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause (i), and the amount paid on account of current repairs referred to in sub-clause (ii), of clause (a), shall not include any expenditure in the nature of capital expenditure.”.

Amendment of section 31.

13. In section 31 of the Income-tax Act, after clause (ii), the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely :—

“*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.”.

Amendment of section 33AB.

14. In section 33AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in the marginal heading, after the word “account”, the words “and coffee development account” shall be inserted;

(b) for the words “Tea Deposit Account”, wherever they occur, the words “Deposit Account” shall be substituted;

(c) in sub-section (1),—

(i) in the opening portion,—

(A) for the words “growing and manufacturing tea”, the words “growing and manufacturing tea or coffee” shall be substituted;

(B) for the words “furnishing the return of his income”, the words “the due date of furnishing the return of his income” shall be substituted;

(ii) in clause (a), for the words “approved in this behalf by the Tea Board”, the words “approved in this behalf by the Tea Board or the Coffee Board” shall be substituted;

(iii) in clause (b), for the portion beginning with the words “deposited any amount” and ending with the words “approval of the Central Government,”, the following shall be substituted, namely :—

“deposited any amount in an account (hereafter in this section referred to as the Deposit Account)

opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board, as the case may be (hereafter in this section referred to as the deposit scheme), with the previous approval of the Central Government.”;

- (d) in sub-section (4), in the opening portion, after the words, brackets and figure “no deduction under sub-section (1) shall be allowed”, the words “ to the assessee carrying on business of growing and manufacturing tea in India” shall be inserted;
- (e) after sub-section (4), the following sub-section shall be inserted, namely :—
- ‘(4A) Notwithstanding anything contained in sub-section (3), where any amount standing to the credit of the assessee, carrying on business of growing and manufacturing coffee in India in the special account or in the Deposit Account, is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account, and such amount is utilised for the purchase of—
- (a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;
- (b) any office appliances (not being computers);
- (c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year;
- (d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,
- the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.’;
- (f) in the *Explanation* occurring at the end, for clause (a), the following clauses shall be substituted, namely :—
- ‘(a) “Coffee Board” means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);
- (aa) “National Bank” means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981).’;

Amendment of section 36.

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

- (a) in clause (iii) and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely :—
- “**Provided** that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.”;
- (b) in clause (vii), in sub-clause (a), after the second proviso and before the *Explanation*, the following provisos shall be inserted with effect from the 1st day of April, 2004, namely :—
- ‘**Provided also** that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:
- Provided also** that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head “Profits and gains of business or profession”.’;
- (c) in clause (x), for the words, brackets, figures and letter “any fund specified under clause (23E) of section 10”, the words “any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately” shall be substituted;
- (d) after the *Explanation* below clause (xi), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—
- “(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act for the objects and purposes authorised by the Act under which such corporation or body corporate was

constituted or established.”

Amendment of section 40.

16. In section 40 of the Income-tax Act, in clause (a), with effect from the 1st day of April, 2004,—

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:—

(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax has not been deducted or, after deduction, has not been paid under Chapter XVII-B:

Provided that where in respect of any such sum, tax has been deducted under Chapter XVII-B and paid in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been deducted and paid:

Provided further that where in respect of any such sum, tax has been deducted under Chapter XVII-B and paid before the expiry of the time prescribed under sub-section (1) of section 200 in the subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which the liability to pay such sum was incurred.

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

(A) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;

(B) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;’;

(b) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

(iii) any payment which is chargeable under the head “Salaries”, if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;’.

Amendment of section 43.

17. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause (3), after the words “but does not include tea bushes or livestock”, the words “or buildings or furniture and fittings” shall be inserted;

(b) in clause (6), in *Explanation 2B*, the words “as appearing in the books of account” shall be omitted.

Amendment of section 43B.

18. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause (e),—

(i) for the words “term loan”, the words “loan or advances” shall be substituted;

(ii) for the words “such loan”, the words “such loan or advances” shall be substituted;

(b) in the first proviso, the words, brackets and letters “referred to in clause (a) or clause (c) or clause (d) or clause (e) or clause (f)” shall be omitted;

(c) the second proviso shall be omitted.

Amendment of section 44AA.

19. In section 44AA of the Income-tax Act, in sub-section (2), in clause (iii), after the word, figures and letters “section 44AF”, the words, figures and letters “or section 44BB or section 44BBB” shall be inserted with effect from the 1st day of April, 2004.

Amendment of section 44AB.

20. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (a) in clause (c), after the word, figures and letters “section 44AF”, the words, figures and letters “or section 44BB or section 44BBB” shall be inserted;
- (b) in the first proviso, for the words, figures and letters “section 44BB or section 44BBA or section 44BBB”, the word, figures and letters “section 44BBA” shall be substituted.

Amendment of section 44AE.

21. In section 44AE of the Income-tax Act, in sub-section (1), after the words “who owns not more than ten goods carriages”, the words “at any time during the previous year” shall be inserted with effect from the 1st day of April, 2004.

Amendment of section 44BB.

22. In section 44BB of the Income-tax Act, after sub-section (2) and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely:—

“(3) Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee”.

Amendment of section 44BBB.

23. In section 44BBB of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (a) the existing section shall be numbered as sub-section (1) thereof and in sub-section (1) as so numbered, the word “and financed under any international aid programme” shall be omitted;
- (b) after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee”.

Amendment of section 44D.

24. In section 44D of the Income-tax Act, in clause (b), after the words, figures and letters “after the 31st day of March, 1976”, the words, figures and letters “but before the 1st day of April, 2003” shall be inserted with effect from the 1st day of April, 2004.

Insertion of new section 44DA.

25. After section 44D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

‘44DA. *Special provision for computing income by way of royalties, etc., in case of non-residents.*—(1) The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head “Profits and gains of business or profession” in accordance with the provisions of this Act:

Provided that no deduction shall be allowed,—

- (i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the

business of such permanent establishment or fixed place of profession in India; or

- (ii) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

(2) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit duly signed and verified by such accountant.

Explanation.—For the purposes of this section,—

- (a) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;
- (b) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;
- (c) “permanent establishment” shall have the same meaning as in clause (iii) of section 92F.¹

Amendment of section 45.

26. In section 45 of the Income-tax Act, in sub-section (5), after clause (b) and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of April, 2004, namely:—

- “(c) where in the assessment for any year, the capital gain arising from the transfer of a capital asset is computed by taking the compensation or consideration referred to in clause (a) or, as the case may be, enhanced compensation or consideration referred to in clause (b), and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, such assessed capital gain of that year shall be recomputed by taking the compensation or consideration as so reduced by such court, Tribunal or other authority to be the full value of the consideration.”

Amendment of section 47.

27. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (a) in clause (xiii), for the word “corporatisation”, wherever it occurs, the words “demutualisation or corporatisation” shall be substituted;
- (b) after clause (xiii), the following clause shall be inserted, namely:—
- “(xiiia) any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).”

Amendment of section 55.

28. In section 55 of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2004,—

- (a) in clause (ab), for the word “corporatisation”, the words “demutualisation or corporatisation” shall be substituted;
- (b) after clause (ab), the following proviso shall be inserted, namely:—
- “**Provided** that the cost of a capital asset, being trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*.”

Amendment of section 57.

29. In section 57 of the Income-tax Act, in clause (j), for the words “in the case of dividends”, the words, figures and letter “in the case of dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 72A.

30. In section 72A of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a specified bank, 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 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.

(2) Notwithstanding anything contained in sub-section (1), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless—

(a) the amalgamating company—

(i) has been engaged in the business for at least three years during which the accumulated loss has occurred or the unabsorbed depreciation has accumulated;

(ii) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation;

(b) the amalgamated company—

(i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

(ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.”;

(b) in sub-section (7), after clause (b), the following clause shall be inserted, namely:—

(c) “specified bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or 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)’.

Substitution of new section for section 80DD.

31. For section 80DD of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

‘80DD. Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.—(1) Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,—

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent, being a person with disability; or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of fifty thousand rupees from his gross total income in respect of the previous year:

Provided that where such dependant is a person with severe disability, the provisions of this sub-section shall have effect as if for the words “fifty thousand rupees”, the words “seventy-five thousand rupees” had been substituted.

(2) The deduction under clause (b) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum

amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

- (b) the assessee nominates either the dependant, being a person with disability, or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.

(3) If the dependant, being a person with disability, predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (b) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) The assessee, claiming a deduction under this section, shall furnish a copy of the certificate issued by the medical authority in the prescribed form and manner, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed:

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income.

Explanation.—For the purposes of this section,—

- (a) “Administrator” means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);
- (b) “dependent” means—
- (i) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;
- (ii) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance, and who has not claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year;
- (c) “disability” shall have the meaning assigned to it in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (d) “Life Insurance Corporation” shall have the same meaning as in clause (iii) of sub-section (8) of section 88;
- (e) “medical authority” means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).
- (f) “person with disability” means a person as referred to in clause (t) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (g) “person with severe disability” means a person with eighty per cent or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (h) “specified company” means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002).’.

Substitution of new section for section 80DDB.

32. For section 80DDB of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

‘80DDB. *Deduction in respect of medical treatment, etc.*—Where an assessee who is resident in India has, during the previous year, actually incurred any expenditure for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board—

- (a) for himself or a dependant, in case the assessee is an individual; or
- (b) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family,

the assessee shall be allowed a deduction of the expenditure actually incurred or a sum of forty thousand rupees, whichever is less, in respect of that previous year in which such expenditure was incurred :

Provided that no such deduction shall be allowed unless the assessee furnishes with the return of income, a certificate in such form, as may be prescribed, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital :

Provided further that the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to in clause (a) or clause (b) :

Provided also that where the expenditure incurred is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is a senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "sixty thousand rupees" had been substituted.

Explanation.—For the purposes of this section,—

- (i) "dependant" means—
 - (a) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them,
 - (b) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance;
- (ii) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants;
- (iii) "insurer" shall have the meaning assigned to it in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938).
- (iv) "senior citizen" means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.¹

Amendment of section 80-IA.

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

- (i) in sub-section (2), for the words "or develops or develops and operates or maintains and operates a special economic zone", the words "or develops a special economic zone" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;
- (ii) in sub-section (4),—
 - (a) in clause (ii), for the figures, letters and words "31st day of March, 2003", the figures, letters and words "31st day of March, 2004" shall be substituted with effect from the 1st day of April, 2004;
 - (b) in clause (iii), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002, namely :—

"Provided that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 or a special economic zone on or after the 1st day of April, 2001 and transfers the operation and maintenance of such industrial park or such special economic zone, as the case may be, to another undertaking (hereafter in this section referred to as the transferee undertaking), the deduction under sub-section (1) shall be allowed to such transferee undertaking for the remaining period in the ten consecutive assessment years as if the operation and maintenance were not so transferred to the transferee undertaking;"

Amendment of section 80-IB.

34. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (a) in sub-section (4), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no deduction under this sub-section shall be allowed for the assessment year beginning

on the 1st day of April, 2004 or any subsequent year to any undertaking or enterprise referred to in sub-section (2) of section 80-IC.”;

- (b) in sub-section (8A), in clause (iii), for the figures, letters and words “1st day of April, 2003”, the figures, letters and words “1st day of April, 2004” shall be substituted;
- (c) in sub-section (10),—
 - (i) in the opening portion, for the figures, letters and words “31st day of March, 2001”, the figures, letters and words “31st day of March, 2005” shall be substituted;
 - (ii) in clause (a), the words, figures and letters “and completes the same below 31st day of March, 2003” shall be omitted;
- (d) in sub-section (11), for the figures, letters and words “31st day of March, 2003”, the figures, letters and words “1st day of April, 2004” shall be substituted.

Insertion of new section 80-IC.

35. After section 80-IB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely :—

80-IC. Special provisions in respect of certain undertakings or enterprises in certain special category States.
—(1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (2), 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 from such profits and gains, as specified in sub-section (3).

(2) This section applies to any undertaking or enterprise,—

- (a) which has begun or begins to manufacture or produce any article or thing, not being any article or thing specified in the Thirteenth Schedule, or which manufactures or produces any article or thing, not being any article or thing specified in the Thirteenth Schedule and undertakes substantial expansion during the period beginning—
 - (i) on the 23rd day of December, 2002 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Sikkim; or
 - (ii) on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Himachal Pradesh or the State of Uttaranchal; or
 - (iii) on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in any of the North-Eastern States;
- (b) which has begun or begins to manufacture or produce any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule, or which manufactures or produces any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule and undertakes substantial expansion during the period beginning—
 - (i) on the 23rd day of December, 2002 and ending before the 1st day of April, 2012, in the State of Sikkim; or
 - (ii) on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in the State of Himachal Pradesh or the State of Uttaranchal; or
 - (iii) on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any of the North-Eastern States.

(3) The deduction referred to in sub-section (1) shall be—

- (i) in the case of any undertaking or enterprise referred to in sub-clauses (i) and (iii) of clause (a) or sub-clauses (i) and (iii) of clause (b), of sub-section (2), one hundred per cent of such profits and gains for

ten assessment years commencing with the initial assessment year;

- (ii) in the case of any undertaking or enterprise referred to in sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b), of sub-section (2), one hundred per cent of such profits and gains for five assessment years commencing with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains.

(4) This section applies to any undertaking or enterprise which fulfils all the following conditions, namely:—

- (i) it is not formed by splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of an undertaking 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;

- (ii) 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 (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(5) 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 in section 10A or section 10B, in relation to the profits and gains of the undertaking or enterprise.

(6) Notwithstanding anything contained in this Act, no deduction shall be allowed to any undertaking or enterprise under this section, where the total period of deduction inclusive of the period of deduction under this section, or under the second proviso to sub-section (4) of section 80-IB or under section 10C, as the case may be, exceeds ten assessment years.

(7) The provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA shall, so far as may be, apply to the eligible undertaking or enterprise under this section.

(8) For the purposes of this section,—

- (i) “Industrial Area” means such areas, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;
- (ii) “Industrial Estate” means such estates, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;
- (iii) “Industrial Growth Centre” means such centres, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;
- (iv) “Industrial Park” means such parks, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;
- (v) “Initial assessment year” means the assessment year relevant to the previous year in which the undertaking or the enterprise begins to manufacture or produce articles or things, or commences operation or completes substantial expansion;
- (vi) “Integrated Infrastructure Development Centre” means such centres, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;
- (vii) “North-Eastern States” means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura;
- (viii) “Software Technology Park” means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry;
- (ix) “substantial expansion” means increase in the investment in the plant and machinery by at least fifty per cent of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken;
- (x) “Theme Park” means such parks, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government.’.

Amendment of section 80L.

36. In section 80L of the Income-tax Act, in sub-section (1),—

- (a) clauses (iv), (v) and (va) shall be omitted with effect from the 1st day of April, 2004;
- (b) in clauses (1) and (2), for the words “nine thousand”, the words “twelve thousand” shall be substituted.

Omission of section 80M.

37. Section 80M of the Income-tax Act shall be omitted with effect from the 1st day of April, 2004.

Insertion of new section 80QQB.

38. After section 80QQA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

80QQB. Deduction in respect of royalty income, etc., of authors of certain books other than text-books.—(1) Where, in the case of an individual resident in India, being an author, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, 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 from such income, computed in the manner specified in sub-section (2).

(2) The deduction under this section shall be equal to the whole of such income referred to in sub-section (1), or an amount of three lakh rupees, whichever is less :

Provided that where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of fifteen per cent of the value of such books sold during the previous year shall be ignored :

Provided further that in respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

(3) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form and in the prescribed manner, duly verified by any person responsible for making such payment to the assessee as referred to in sub-section (1), along with the return of income, setting forth such particulars as may be prescribed.

(4) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(5) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any assessment year.

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

- (a) “author” includes a joint author;
- (b) “books” shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text-books for schools, tracts and other publications of similar nature, by whatever name called;
- (c) “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;
- (d) “lump sum”, in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.’

Insertion of new section 80RRB.

39. After section 80RRA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely :—

80RRB. Deduction in respect of royalty on patents.—(1) Where in the case of an assessee, being an individual, who is—

- (a) resident in India;
- (b) a patentee;
- (c) in receipt of any income by way of royalty in respect of a patent registered on or after the 1st day of April, 2003 under the Patents Act, 1970 (39 of 1970), and

his gross total income of the previous year includes royalty, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, from such income, of an amount equal to the whole of such income or three lakh rupees, whichever is less:

Provided that where a compulsory licence is granted in respect of any patent under the Patents Act, 1970 (39 of 1970), the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act :

Provided further that in respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority referred to in clause (c) of the *Explanation* to section 80QQB may allow in this behalf.

(2) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the prescribed authority, along with the return of income setting forth such particulars as may be prescribed.

(3) No deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form, from the authority or authorities, as may be prescribed, along with the return of income.

(4) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed, under any other provision of this Act in any assessment year.

Explanation.—For the purposes of this section,—

- (a) “Controller” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970);
- (b) “lump sum” includes an advance payment on account of such royalties which is not returnable;
- (c) “patent” means a patent (including a patent of addition) granted under the Patents Act, 1970 (39 of 1970);
- (d) “patentee” means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, 1970 (39 of 1970), and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent;
- (e) “patent of addition” shall have the meaning assigned to it in clause (q) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970);
- (f) “patented article” and “patented process” shall have the meanings respectively assigned to them in clause (o) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970);
- (g) “royalty”, in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains” or consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use) for—
 - (i) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or
 - (ii) the imparting of any information concerning the working of, or the use of, a patent; or
 - (iii) the use of any patent; or
 - (iv) the rendering of any services in connection with the activities referred to in sub-clauses (i) to (iii);
- (h) “true and first inventor” shall have the meaning assigned to it in clause (y) of sub-section (1) of section 2 of the Patents Act, 1970 (39 of 1970).’.

Substitution of new section for section 80U.

40. For section 80U of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely :—

'80U. Deduction in case of a person with disability.—(1) In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of fifty thousand rupees :

Provided that where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words “fifty thousand rupees”, the words “seventy-five thousand rupees” had been substituted.

(2) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed :

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income under section 139.

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

- (a) “disability” shall have the meaning assigned to it in clause (j) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (b) “medical authority” means the medical authority as referred to in clause (p) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (c) “person with disability” means a person referred to in clause (t) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (d) “person with severe disability” means a person with eighty per cent or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).’

Amendment of section 88.

41. In section 88 of the Income-tax Act, with effect from the 1st day April, 2004,—

(a) in sub-section (2),—

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

“(xivb) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(a) to any university, college, school or other educational institution situated within India;

(b) for the purpose of full-time education of any of the persons specified in sub-section (4);”;

(ii) in clause (xvi), for the *Explanation*, the following *Explanation* shall be substituted, namely :—

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

(i) “eligible issue of capital” means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-IA;

(ii) “public company” shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(iii) “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act 1956 (1 of 1956);”;

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

“(2A) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent of the actual capital sum assured.

*Explanation.—*In calculating any such actual capital sum, no account shall be taken—

- (i) of the value of any premiums agreed to be returned, or
- (ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.”;
- (c) in sub-section (4), after clause (c), the following clause shall be inserted, namely :—
 - “(d) for the purpose of clause (xivb) of that sub-section, in the case of an individual, any two children of such individual.”;
- (d) in sub-section (5), after the second proviso, the following proviso shall be inserted, namely :—
 - “**Provided** also that where the aggregate of any sum specified in clause (xivb) of sub-section (2) exceeds an amount of twelve thousand rupees in respect of a child, a deduction under sub-section (1) in respect of such sum shall be allowed with reference to so much of the aggregate as does not exceed an amount of twelve thousand rupees in respect of such child.”.

Amendment of section 88B.

42. In section 88B of the Income-tax Act, for the words “fifteen thousand rupees”, the words “twenty thousand rupees” shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 90.

43. In section 90 of the Income-tax Act, with effect from the 1st day of April, 2004,—

- (i) in sub-section (1), for clause (a), the following clause shall be substituted, namely :—
 - “(a) for the granting of relief in respect of—
 - (i) income on which have been paid both income-tax under this Act and income-tax in that country; or
 - (ii) income-tax chargeable under this Act or under the corresponding law in force in that country to promote mutual economic relations, trade and investment, or”;
- (ii) after sub-section (2) and before the *Explanation*, the following sub-section shall be inserted, namely :—
 - “(3) Any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.”.

Amendment of section 115A.

44. In section 115A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2004,—

- (i) in clause (a), for the word “dividends”, at both the places where it occurs, the words, figures and letter “dividends other than dividends referred to in section 115-O” shall be substituted;
- (ii) in clause (b), in the opening portion, for the words “a foreign company, includes any income by way of royalty or fees for technical services”, the words, brackets, figures and letters a non-resident (not being a company) or a foreign company, includes any income by way of royalty or fees for technical services other than income referred to in sub-section (1) of section 44DA” shall be substituted.

Amendment of section 115AC.

45. In section 115AC of the Income-tax Act, for the word “dividends”, wherever it occurs, the words, figures and letters “dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 115ACA.

46. In section 115ACA of the Income-tax Act, for the words “income by way of dividends”, wherever they occur, the words, figures and letter “income by way of dividends, other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 115AD.

47. In section 115AD of the Income-tax Act, in sub-section (1), in clause (a), for the word “income”, the words,

figures and letter “income other than income by way of dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 115C.

48. In section 115C of the Income-tax Act, in clause (c), for the words “income derived”, the words, figures and letter “income derived other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 115-O.

49. In section 115-O of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of twelve and one-half per cent.”.

Amendment of section 115R.

50. In section 115R of the Income-tax Act, for sub-section (2), the following shall be substituted, namely :—

“(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of twelve and one-half per cent :

Provided that nothing contained in this sub-section shall apply in respect of any income distributed,—

- (a) by the Administrator of the specified undertaking, to the unit holders; or
- (b) to a unit holder of open-ended equity oriented funds in respect of any distribution made from such funds for a period of one year commencing from the 1st day of April, 2003.

Explanation.—For the purposes of this sub-section, “Administrator” and “specified company” shall have the meanings respectively assigned to them in the *Explanation* to clause (35) of section 10.’.

Amendment of section 115S.

51. In section 115S of the Income-tax Act, for the words “Unit Trust of India or a Mutual Fund and the Unit Trust of India”, the words, brackets, letter and figures “specified company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) or a Mutual Fund and the specified company” shall be substituted.

Amendment of section 115T.

52. In section 115T of the Income-tax Act, in the opening portion, for the words “Unit Trust of India or a Mutual Fund and the Unit Trust of India”, the words, brackets, letter and figures “specified company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) or a Mutual Fund and the specified company” shall be substituted.

Amendment of section 132.

53. In section 132 of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section (1),—

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

“**Provided** that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;”;

(ii) after the second proviso, the following proviso shall be inserted, namely :—

“**Provided also** that nothing contained in the second proviso shall apply in case of any valuable

article or thing, being stock-in-trade of the business.”;

- (b) in sub-section (8), for the words, brackets, letters and figures “under clause (c) of section 158BC”, the words, brackets, letters and figures “under section 153A or clause (c) of section 158BC” shall be substituted.

Amendment of section 132B.

54. In section 132B of the Income-tax Act, with effect from the 1st day of June, 2003,—

- (a) in sub-section (1), in clause (i),—
- (i) for the words, figures and letter “under Chapter XIV-B for the block period”, the words, figures and letter “under section 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be” shall be substituted;
- (ii) in the first proviso, for the words “Provided that where the nature and source of acquisition of any such asset is explained”, the words “Provided that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained” shall be substituted;
- (b) in sub-section (4), in clause (b), for the words, figures and letter “under Chapter XIV-B”, the words, figures and letters “under section 153A or under Chapter XIV-B” shall be substituted.

Amendment of section 133A.

55. In section 133A of the Income-tax Act, with effect from the 1st day of June, 2003,—

- (a) in sub-section (3), in clause (ia), in the proviso, for clause (b), the following clause shall be substituted, namely :—
- “(b) retain in his custody any such books of account or other documents for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefore, as the case may be.”;
- (b) after sub-section (6) and before the *Explanation*, the following proviso shall be inserted, namely :—
- “**Provided** that no action under sub-section (1) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.”;
- (c) in the *Explanation* below sub-section (6), for clause (a), the following clause shall be substituted, namely :—
- “(a) “income-tax authority” means a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3), and sub-section (5), includes an Inspector of Income-tax.’.

Amendment of section 139.

56. In section 139 of the Income-tax Act, after sub-section (1A), the following sub-section shall be inserted, namely :—

“(1B) Without prejudice to the provisions of sub-section (1), any person, being a company or being a person other than a company, required to furnish a return of income under sub-section (1), may, at his option, on or before the due date, furnish a return of his income for any previous year in accordance with such scheme as may be specified by the Board in this behalf by notification in the Official Gazette and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (1), and the provisions of this Act shall apply accordingly.”.

Amendment of section 140A.

57. In section 140A of the Income-tax Act, with effect from the 1st day of June, 2003,—

- (a) in sub-section (1), for the words, figures and letters “, as the case may be, section 158BC”, the words, figures and letters “section 153A or, as the case may be, section 158BC” shall be substituted;
- (b) in sub-section (2), for the words, figures and letters “an assessment under section 158BC”, the words,

figures and letters “an assessment under section 153A or section 158BC” shall be substituted.

Amendment of section 143.

58. In section 143 of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 2003,—

(a) in clause (i), the following proviso shall be inserted, namely :—

“**Provided** that no notice under this clause shall be served on the assessee on or after the 1st day of June, 2003;”;

(b) in the proviso below clause (ii), for the words “no notice under this sub-section”, the words, brackets and figures “no notice under clause (ii)” shall be substituted.

Insertion of new sections 153A, 153B and 153C.

59. After section 153 of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of June, 2003, namely :—

153A. Assessment in case of search or requisition.—Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made :

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years:

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate.

Explanation.—For the removal of doubts, it is hereby declared that,—

(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;

(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

153B. Time-limit for completion of assessment under section 153A.—(1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

(a) in respect of each assessment year falling within six assessment years referred to in clause (b) of section 153A, within a period of two years 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;

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of two years 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.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(ii) the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section; or

(iii) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129; or

(iv) in a case where an application made before the Settlement Commission under section 245C is

rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order under sub-section (1) of section 245D is received by the Commissioner under sub-section (2) of that section, shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in clause (a) or clause (b) of this section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(2) The authorisation referred to in clause (a) and clause (b) of sub-section (1) shall be deemed to have been executed,—

- (a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;
- (b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

153C. *Assessment of income of any other person.*—Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.’

Amendment of section 155.

60. In section 155 of the Income-tax Act, after sub-section (15) and before the *Explanation*, the following sub-sections shall be inserted with effect from the 1st day of April, 2004, namely:—

“(16) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed by taking the compensation or consideration as referred to in clause (a) or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in clause (b) of sub-section (5) of section 45, to be the full value of consideration deemed to be received or accruing as a result of the transfer of the asset and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which the order reducing the compensation was passed by the court, Tribunal or other authority.

(17) Where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970 (39 of 1970),—

- (i) the patent was revoked, or
- (ii) the name of the assessee was excluded from the patents register as patentee in respect of that patent,

the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which the assessee's name was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which such order of the Controller referred to in clause (b) of sub-section (1), or the High Court referred to in clause (i) of sub-section (1) of section 2, of the Patents Act, 1970 (39 of 1970), as the case may be, was passed.”

Insertion of new section 158BI.

61. After section 158BH of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2003, namely:—

“158BI. *Chapter not to apply after certain date.*—The provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003.”.

Amendment of section 163.

62. In section 163 of the Income-tax Act, in sub-section (1), after the proviso, the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely:—

‘*Explanation.*—For the purposes of this sub-section, the expression “business connection” shall have the meaning assigned to it in *Explanation 2* to clause (i) of sub-section (1) of section 9 of this Act.’.

Amendment of section 184.

63. In section 184 of the Income-tax Act, for sub-section (5), the following sub-section shall be substituted with effect from the 1st day of April, 2004, namely:—

‘(5) Notwithstanding anything contained in any other provision of this Act, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession” and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28.’.

Substitution of new section for section 185.

64. For section 185 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

‘185. *Assessment when section 184 not complied with.*—Notwithstanding anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession” and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28.’.

Amendment of section 191.

65. In section 191 of the Income-tax Act, the following *Explanation* shall be inserted with effect from the 1st day of June, 2003, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that if any person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then, such person, the principal officer and the company shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default as referred to in sub-section (1) of section 201 in respect of such tax.”.

Amendment of section 193.

66. In section 193 of the Income-tax Act, in the opening portion, for the words “The person responsible for paying any income”, the words “The person responsible for paying to a resident any income” shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 194.

67. In section 194 of the Income-tax Act,—

- (a) in the first proviso, in clause (b), for the words “one thousand rupees”, the words “two thousand five hundred rupees” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of August, 2002;

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

“**Provided also** that no such deduction shall be made in respect of any dividends referred to in section 115-O.”.

Amendment of section 194C.

68. In section 194C of the Income-tax Act, sub-sections (4) and (5) shall be omitted with effect from the 1st day of June, 2003.

Amendment of section 194G.

69. In section 194G of the Income-tax Act, sub-sections (2) and (3) shall be omitted with effect from the 1st day of June, 2003.

Amendment of section 194-I.

70. In section 194-I of the Income-tax Act, in the opening portion, for the words “Any person, not being an individual or a Hindu undivided family, who is responsible for paying to any person”, the words “Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident” shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 194J.

71. In section 194J of the Income-tax Act, with effect from the 1st day of June, 2003,—

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

“**Provided also** that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.”;

(b) sub-sections (2) and (3) shall be omitted.

Amendment of section 194K.

72. In section 194K of the Income-tax Act,—

(a) in the first proviso, for the words “one thousand rupees”, the words “two thousand five hundred rupees” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of August, 2002;

(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 from any such income credited or paid on or after the 1st day of April, 2003.”.

Amendment of section 195.

73. In section 195 of the Income-tax Act,—

(a) in sub-section (1),—

(i) the brackets and words “(not being interest on securities)” shall be omitted with effect from the 1st day of June, 2003;

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

“**Provided further** that no such deduction shall be made in respect of any dividends referred to in section 115-O.”;

(b) in sub-section (2), for the brackets and words “(other than interest on securities and salary)”, the brackets and words “(other than salary)” shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 196A.

74. In section 196A of the Income-tax Act, in sub-section (1), the following proviso shall be inserted, namely:—

“**Provided** that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.”.

Amendment of section 196C.

75. In section 196C of the Income-tax Act, the following proviso shall be inserted, namely:—

“**Provided** that no such deduction shall be made in respect of any dividends referred to in section 115-O.”.

Amendment of section 196D.

76. In section 196D of the Income-tax Act, in sub-section (1), the following proviso shall be inserted, namely:—

“**Provided** that no such deduction shall be made in respect of any dividends referred to in section 115-O”.

Amendment of section 197.

77. In section 197 of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2003,—

- (a) for the words “any income of any person”, the words “any income of any person or sum payable to any person” shall be substituted;
- (b) for the figures and letters “194A, 194D, 194H, 194-I, 194K, 194L”, the figures and letters “194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K” shall be substituted.

Amendment of section 197A.

78. In section 197A of the Income-tax Act, with effect from the 1st day of June, 2003,—

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

“(1C) Notwithstanding anything contained in section 193 or section 194 or section 194A or section 194EE or section 194K or sub-section (1B) of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or section 194A or section 194EE or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.”;

- (b) in sub-section (2), after the words, brackets, figure and letter “or sub-section (1A)”, at both the places where they occur, the words, brackets, figure and letter “or sub-section (1C)” shall be inserted.

Amendment of section 206.

79. In section 206 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, 2003, namely:—

“(2) Without prejudice to the provisions of sub-section (1), the person responsible for deducting tax under the foregoing provisions of this Chapter other than the principal officer in the case of every company may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that the principal officer shall, in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(3) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(4) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (2) is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of a company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on

an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.”.

Amendment of section 206C.

80. In section 206C of the Income-tax Act, with effect from the 1st day of June, 2003,—

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

“TABLE

<i>Sl. No.</i>	<i>Nature of Goods</i>	Percentage
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>(i)</i>	Alcoholic liquor for human consumption and tendu leaves	Ten per cent
<i>(ii)</i>	Timber obtained under a forest lease	Fifteen per cent
<i>(iii)</i>	Timber obtained by any mode other than under a forest lease	Five per cent
<i>(iv)</i>	Any other forest produce not being timber or tendu leaves	Fifteen per cent
<i>(v)</i>	Scrap	Ten per cent .”;

(b) in the *Explanation* below sub-section (11), in clause (a), for sub-clauses (i) to (iii), the following sub-clauses shall be substituted, namely:—

“(i) a public sector company, or

(ii) a buyer in the further sale of such goods obtained in pursuance of such sale.”

Amendment of section 230.

81. In section 230 of the Income-tax Act, for sub-section (1), the following sub-sections shall be substituted with effect from the 1st day of June, 2003, namely:—

“(1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person,—

(a) who is not domiciled in India;

(b) who has come to India in connection with business, profession or employment; and

(c) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as may be prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause (i) or the person referred to in clause (ii), and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India:

Provided that nothing contained in sub-section (1) shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(1A) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, every person, who is domiciled in India at the time of his departure from India, shall furnish, in the prescribed form to the income-tax authority or such other authority as may be prescribed—

(a) the permanent account number allotted to him under section 139A:

Provided that in case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under this Act, such person shall furnish a certificate in the prescribed form;

- (b) the purpose of his visit outside India;
- (c) the estimated period of his stay outside India:

Provided that no person—

- (i) who is domiciled in India at the time of his departure; and
- (ii) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under this Act, or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Expenditure-tax Act, 1987 (35 of 1987), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person :

Provided that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Chief Commissioner of Income-tax.”.

Amendment of section 234A.

82. In section 234A of the Income-tax Act, with effect from the 1st day of June, 2003,—

- (a) in sub-section (1), in *Explanation 3*, for the words and figures “under section 147”, the words, figures and letter “under section 147 or section 153A” shall be substituted;
- (b) in sub-section (3),—
 - (i) in the opening portion, for the words and figures “by a notice under section 148”, the words, figures and letter “by a notice under section 148 or section 153A” shall be substituted;
 - (ii) in clause (b), after the word and figures “section 147”, the words, figures and letter “or reassessment under section 153A” shall be inserted.

Amendment of section 234B.

83. In section 234B of the Income-tax Act, with effect from the 1st day of June, 2003,—

- (a) in sub-section (1), in *Explanation 2*, for the words and figures “under section 147”, the words, figures and letter “under section 147 or section 153A” shall be substituted;
- (b) in sub-section (3), for the words and figures “under section 147” at both the places where they occur, the words, figures and letter “under section 147 or section 153A” shall be substituted.

Insertion of new section 234D.

84. After section 234C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2003, namely :—

“234D. *Interest on excess refund.*—(1) Subject to the other provisions of this Act, where any refund is granted to the assessee under sub-section (1) of section 143, and—

- (a) no refund is due on regular assessment; or
- (b) the amount refunded under sub-section (1) of section 143 exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of two-third per cent on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(2) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of refund granted under sub-section (1) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then, the interest chargeable, if any, under sub-section (1) shall be reduced accordingly.

Explanation.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.”.

Amendment of section 245N.

85. In section 245N of the Income-tax Act, in clause (a),—

(a) in sub-clause (ii), with effect from the 1st day of June, 2000,—

(i) after the words “a determination by the Authority in relation to”, the words “the tax liability of a non-resident arising out of” shall be inserted and shall be deemed to have been inserted;

(ii) for the words “a non-resident”, the words “such non-resident” shall be substituted and shall be deemed to have been substituted;

(b) after sub-clause (iii), the following proviso shall be inserted, namely :—

“**Provided** that where an advance ruling has been pronounced, before the date on which the Finance Bill, 2003 receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (ii) of this clause as it stood immediately before such date, such ruling shall be binding on the persons specified in section 245S;”.

Amendment of section 246A.

86. In section 246A of the Income-tax Act, in sub-section (1), after clause (b), the following clause shall be inserted with effect from the 1st day of June, 2003, namely :—

“(ba) an order of assessment or reassessment under section 153A;”.

Amendment of section 269T.

87. In section 269T of the Income-tax Act, after the proviso and before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002, namely :—

“**Provided further** that nothing contained in this section shall apply to repayment of any loan or deposit taken or accepted from—

(i) Government;

(ii) any banking company, post office savings bank or co-operative bank;

(iii) any corporation established by a Central, State or Provincial Act;

(iv) any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.”.

Amendment of section 271E.

88. In section 271E of the Income-tax Act, in sub-section (1), for the word “deposit” at both the places where it occurs, the words “loan or deposit” shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 275.

89. In section 275 of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2003—

(a) after clause (a), the following proviso shall be inserted, namely :—

“**Provided** that in a case where the relevant assessment or other order is the subject matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Chief Commissioner or Commissioner, whichever is later;”;

(b) in clause (b), after the word and figures “section 263”, the words and figures “or section 264” shall be inserted.

Amendment of section 276CC.

90. In section 276CC of the Income-tax Act, for the word and figures “section 148”, the words, figures and letter “section 148 or section 153A” shall be substituted with effect from the 1st day of June, 2003.

Insertion of new section 285BA.

91. After section 285B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

“285BA. *Annual information return.*—Any assessee, who enters into any financial transaction, as may be prescribed, with any other person, shall furnish, within the prescribed time, an annual information return in such form and manner, as may be prescribed, in respect of such financial transaction entered into by him during any previous year.”.

Insertion of Thirteenth and Fourteenth Schedules.

92. In the Income-tax Act, after the Twelfth Schedule, the following Schedules shall be inserted with effect from the 1st day of April, 2004, namely:—

“THE THIRTEENTH SCHEDULE

[See section 80-IC(2)]

LIST OF ARTICLES OR THINGS**Part A****For the State of Sikkim**

S.No.	Article or thing
1.	Tobacco and tobacco products (including cigarettes, cigars and gutka, etc.)
2.	Aerated branded beverages
3.	Pollution-causing paper and paper products

Part B**For the State of Himachal Pradesh and the State of Uttaranchal**

S.No.	Activity or article or thing	Excise classification	Sub-class under
			National
			Informatics
			Centre (NIC)
			Classification,
			1998
1.	Tobacco and tobacco products including cigarettes and pan masala	24.01 to 24.04 and 21.06	1600
2.	Thermal Power Plant (coal/oil based)		40102 or 40103
3.	Coal washeries/dry coal processing		
4.	Inorganic Chemicals excluding medicinal grade oxygen (2804.11), medicinal grade hydrogen peroxide (2847.11), compressed air (2851.30)		

		Chapter 28	
5.	Organic chemicals excluding Provitamins/ vitamins, Hormones (29.36), Glycosides (29.39), sugars* (29.40)	Chapter 29	24117
6.	Tanning and dyeing extracts, tannis and their derivatives, dyes, colours, paints and varnishes; putty, fillers and other mastics; inks	Chapter 32	24113 or 24114
7.	Marble and mineral substances not classified elsewhere	25.04 25.05	14106 or 14107
8.	Flour mills/rice mills	11.01	15311
9.	Foundries using coal		
10.	Mineral fuels, mineral oils and products of their distillation, bituminous substances : mineral waxes	Chapter 27	
11.	Synthetic rubber products	40.02	24131
12.	Cement clinkers and asbestos, raw including fibre	2502.10, 2503.00	
13.	Explosive (including industrial explosives, detonators and fuses, fireworks, matches, propellant powders, etc.)	36.01 to 36.06	24292
14.	Mineral or chemical fertilizers	31.02 to 31.05	2412
15.	Insecticides, fungicides, herbicides and pesticides (basic manufacture and formulation)	3808.10	24211 or 24219
16.	Fibre glass and articles thereof	70.14	26102
17.	Manufacture of pulp - wood pulp, mechanical or chemical (including dissolving pulp)	47.01	21011
18.	Branded aerated water/soft drinks		

	(non-fruit based)	2201.20, 2202.20	15541 or 15542
19.	Paper	4801	21011 to 21019
	Writing or printing paper, etc.,	4802.10	
	Paper or paperboard, etc.,	4802.20	
	Maplitho paper, etc.,	4802.30	
	Newsprint, in rolls or sheets	4801.00	
	Craft paper, etc.,	4804.10	
	Sanitary towels, etc.,	4818.10	
	Cigarette paper	48.13	
	Grease-proof paper	4806.10	
	Toilet or facial tissue, etc.,	4803	
	Paper and paper board, laminated internally with bitumen, tar or asphalt	4807.10	
	Carbon or similar copying paper	4809.10	
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics, etc.,	4811.20	
	Paper and paperboard, coated impregnated or covered with wax, etc.,	4811.40	
20.	Plastics and articles thereof	39.09 to 39.15	

*Serial No. 5 Reproduction by synthesis not allowed as also downstream industries for sugar.

The Fourteenth Schedule

[See section 80-IC(2)]

LIST OF ARTICLES OR THINGS OR OPERATIONS

PART A

FOR THE NORTH-EASTERN STATES

1. Fruit and Vegetable Processing industries manufacturing or producing—
 - (i) Canned or bottled products;
 - (ii) Aseptic packaged products;
 - (iii) Frozen products;
 - (iv) De-hydrated products;
 - (v) Oleoresins
2. Meat and Poultry Product industries manufacturing or producing—
 - (i) Meat Products (buffalo, sheep, goat and pork);

- (ii) Poultry production;
 - (iii) Egg Powder Plant
3. Cereal Based Product industries manufacturing or producing—
- (i) Maize Milling including starch and its derivatives;
 - (ii) Bread, Biscuits, Breakfast Cereal
4. Food and Beverage industries manufacturing or producing—
- (i) Snacks;
 - (ii) Non-alcoholic beverages;
 - (iii) Confectionery including chocolate;
 - (iv) Pasta products;
 - (v) Processed spices, etc.;
 - (vi) Processed pulses;
 - (vii) Tapioca products.
5. Milk and milk based product industries manufacturing or producing—
- (i) Milk powder;
 - (ii) Cheese;
 - (iii) Butter/ghee;
 - (iv) Infant food;
 - (v) Weaning food;
 - (vi) Malted milk food.
6. Food packaging industry.
7. Paper products industry.
8. Jute and mesta products industry.
9. Cattle or poultry or fishery feed products industry.
10. Edible Oil processing or vanaspati industry.
11. Processing of essential oils and fragrances industry.
12. Processing and raising of plantation crops - tea, rubber, coffee, coconuts, etc.
13. Gas based Intermediate Products Industry manufacturing or producing—
- (i) Gas exploration and production;
 - (ii) Gas distribution and bottling;
 - (iii) Power generation;
 - (iv) Plastics;
 - (v) Yarn raw materials;
 - (vi) Fertilizers;
 - (vii) Methanol;
 - (viii) Formaldehyde and FR resin melamine and MF resin;
 - (ix) Methylamine, Hexamethylene tetramine, Ammonium bi-carbonate;
 - (x) Nitric Acid and Ammonium Nitrate;
 - (xi) Carbon black;
 - (xii) Polymer chips.
14. Agro forestry based industry.
15. Horticulture industry.
16. Mineral based industry.
17. Floriculture industry.
18. Agro based industry.

PART B
FOR THE STATE OF SIKKIM

S.No.	Activity or article or thing or operation
1.	Eco-Tourism including Hotels, Resorts, Spa, Amusement Parks and Ropeways.
2.	Handicrafts and handlooms.
3.	Wool and silk reeling, weaving and processing, printing, etc.
4.	Floriculture.
5.	Precision Engineering including watch making.
6.	Electronics including computronics hardware and software and Information Technology (IT) related industries.
7.	Food processing including Agro-based industries. Processing, preservation and packaging of fruits and vegetables (excluding conventional grinding/extraction units).
8.	Medicinal and aromatic Herbs-Plantation and Processing.
9.	Raising and processing of plantation crops <i>i.e.</i> , tea, oranges and cardamom.
10.	Mineral based industry.
11.	Pharma products.
12.	Honey.
13.	Biotechnology.

PART C
FOR THE STATE OF HIMACHAL PRADESH AND THE
STATE OF UTTARANCHAL

S.No.	Activity or article	<i>4/6 digit</i>	<i>Sub-class</i>	<i>ITC(HS)</i>
	<i>or thing or</i>	<i>excise</i>	<i>under NIC</i>	<i>classification</i>
	<i>operation</i>	<i>classification</i>	<i>classification</i>	<i>4/6 digit</i>
			<i>on 1998</i>	
1.	Floriculture	-	-	0603 or 060120 or 06029020 or 06024000
2.	Medicinal herbs and aromatic herbs, etc., processing	-	-	
3.	Honey	-	-	040900
4.	Horticulture and agro based industries such as			
(a)	Sauces, ketchup, etc.	21.03	15135 to 15137 and 15139	
	(b) Fruit juices and fruit pulp	2202.40		

	(c) Jams, jellies, vegetable juices, puree, pickles, etc.	20.01		
	(d) Preserved fruits and vegetables			
	(e) Processing of fresh fruits and vegetables including packaging			
	(f) Processing, preservation, packaging of mushrooms			
5.	Food Processing Industry excluding those included in the Thirteenth Schedule	19.01 to 19.04		
6.	Sugar and its by-products	-	-	17019100
7.	Silk and silk products	50.04 50.05	17116	
8.	Wool and wool products	51.01 to 51.12	17117	
9.	Woven fabrics (Excisable garments)	-	-	6101 to 6117
10.	Sports goods and articles and equipment for general physical exercise and equipment for adventure sports/activities, tourism (to be specified, by notification, by the Central Government)	9506.00		
11.	Paper and paper products excluding those in the Thirteenth Schedule (as per excise classification)			
12.	Pharma products	30.03 to 30.05		
13.	Information and Communication Technology Industry, Computer hardware, Call Centres			

			84.71	30006/7	
14.	Bottling of mineral water		2201		
15.	Eco-tourism including hotels, resorts, spa, entertainment/ amusement parks and ropeways		-	55101	
16.	Industrial gases (based on atmospheric fraction)				
17.	Handicrafts				
18.	Non-timber forest product based industries".				

WEALTH-TAX

Amendment of section 17 of Act 27 of 1957.

93. In section 17 of the Wealth-tax Act, 1957, in sub-section (1), the words "not being less than thirty days", shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

GIFT-TAX

Amendment of section 16 of Act 18 of 1958.

94. In section 16 of the Gift-tax Act, 1958, in sub-section (1), the words "not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

EXPENDITURE-TAX

Amendment of section 3.

95. In the Expenditure-tax Act, 1987 (35 of 1987) (hereinafter referred to as the Expenditure-tax Act), in section 3, in clause (1), for the words "incurred in a hotel", the words, figures and letters "incurred before the 1st day of June, 2003 in a hotel" shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 4.

96. In the Expenditure-tax Act, in section 4, in clause (a), after the words "the commencement of this Act", the words, figures and letters "but not after the 31st day of May, 2003" shall be inserted with effect from the 1st day of June, 2003.

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Chapter V

SERVICE TAX

Modification of Act

150. During the period commencing on and from the 16th day of July, 1997 and ending with the 16th day of October, 1998, the provisions of Chapter V of the Finance Act, 1994 (32 of 1994), as modified by section 116 of the Finance Act, 2000 (10 of 2000), shall have and shall be deemed to have had effect subject to the following further modifications, namely :—

- (a) in section 68, in sub-section (1), the following proviso shall be inserted at the end and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely :—

“**Provided that—**

(i) in relation to services provided by a clearing and forwarding agent, every person who engages a clearing and forwarding agent and by whom remuneration or commission (by whatever name called) is paid for such services to the said agent for the period commencing on and from the 16th day of July, 1997 and ending with the 16th day of October, 1998; or

(ii) in relation to services provided by goods transport operator, every person who pays or is liable to pay the freight either himself or through his agent for the transportation of goods by road in a goods carriage for the period commencing on and from the 16th day of November, 1997 and ending with the 2nd day of June, 1998,

shall be deemed to be a person liable to pay service tax, for such services provided to him, to the credit of the Central Government.”;

- (b) after section 71, the following section shall be inserted and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely :—

“71A. *Filing of return by certain customers.*—Notwithstanding anything contained in the provisions of sections 69 and 70, the provisions thereof shall not apply to a person referred to in the proviso to sub-section (1) of section 68 for the filing of return in respect of service tax for the respective period and service specified therein and such person shall furnish return to the Central Excise Officer within six months from the day on which the Finance Bill, 2003 receives the assent of the President in the prescribed manner on the basis of the self-assessment of the service tax and the provisions of section 71 shall apply accordingly.”;

- (c) in section 94, in sub-section (2), after clause (c), the following clause shall be inserted and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely :—

“(cc) the manner of furnishing return under section 71A;”.

Amendment of Act 32 of 1994.

151. In the Finance Act, 1994,—

- (a) for section 65, the following sections shall be substituted, namely:—

‘65. *Definition.*—In this Chapter, unless the context otherwise requires,—

- (1) “actuary” has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (2) “advertisement” includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light sound, smoke or gas;
- (3) “advertising agency” means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultation;
- (4) “air travel agent” means any person engaged in providing any service connected with the booking of passage for travel by air;
- (5) “Appellate Tribunal” means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);
- (6) “architect” means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 (20 of 1972) and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;
- (7) “assessee” means a person liable to pay the service tax and includes his agent;
- (8) “authorised dealer of foreign exchange” has the meaning assigned to “authorised person” in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- (9) “authorised service station” means any service station, or centre, authorised by any motor vehicle manufacturer, to carry out any service or repair of any motor car, maxicab or two-wheeled motor vehicle manufactured by such manufacturer;
- (10) “banking” has the meaning assigned to it in clause (b) of section 5 of the Banking Regulation Act, 1949

- (10 of 1949);
- (11) “banking company” has the meaning assigned to in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);
- (12) “banking and other financial service” means—
- (a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate, namely :—
- (i) financial leasing services including equipment leasing and hire-purchase by a body corporate;
 - (ii) credit card services;
 - (iii) merchant banking services;
 - (iv) securities and foreign exchange (forex) broking;
 - (v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services, but does not include cash management;
 - (vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy; and
 - (vii) provision and transfer of information and data processing;
- (b) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause (a);
- (13) “Board” means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
- (14) “body corporate” has the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);
- (15) “broadcasting” has the meaning assigned to it in clause (c) of section 2 of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990 and also includes programme selection, scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organization, having its head office situated in any place outside India, includes the activity of selling of time slots or obtaining sponsorships for broadcasting of any programme or collecting the broadcasting charges on behalf of the said agency or organisation, by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner;
- (16) “broadcasting agency or organisation” means any agency or organisation engaged in providing service in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges on behalf of the said agency or organisation;
- (17) “beauty treatment” means face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up;
- (18) “beauty parlour” means any establishment providing beauty treatment services;
- (19) “business auxiliary service” means any service in relation to,—
- (i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or
 - (ii) promotion or marketing of service provided by the client; or
 - (iii) any customer care service provided on behalf of the client; or
 - (iv) any incidental or auxiliary support service such as billing, collection or recovery of cheques, accounts and remittance, evaluation of prospective customer and public relation services,
- and includes services as a commission agent, but does not include any information technology service.

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this clause “information technology service” means any service in relation to designing, developing or maintaining of computer software, or computerized data processing or system networking or any other service primarily in relation to operation of computer systems;

- (20) “cab” means motorcab or maxicab;
- (21) “cable operator” has the meaning assigned to it clause (aa) of section 2 of the Cable Television Networks (Regulations) Act, 1995 (7 of 1995);
- (22) “Cable service” has the meaning assigned to it in clause (b) of section 2 of the Cable Television Networks (Regulations) Act, 1995;
- (23) “cargo handling service” means loading, unloading, packing or unpacking of cargo and includes cargo handling services provided for freight in special containers or for non-containerized freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport and cargo handling service incidental to freight, but does not include handling of export cargo or passenger baggage or mere transportation of goods;
- (24) “caterer” means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;
- (25) “clearing and forwarding agent” means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent;
- (26) “commercial training or coaching” means any training or coaching provided by a commercial training or coaching centre;
- (27) “commercial training or coaching centre” means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force;
- (28) “commissioning or installation” means any service provided by a commissioning and installation agency in relation to commissioning or installation of plant, machinery or equipment;
- (29) “commissioning and installation agency” means any agency providing service in relation to Commissioning or installation;
- (30) “computer network” has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (31) “consulting engineer” means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;
- (32) “convention” means a formal meeting or assembly which is not open to the general public, but does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation;
- (33) “courier agency” means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;
- (34) “credit rating agency” means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;
- (35) “custom house agent” means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962);
- (36) “data” has the meaning assigned to it in clause (o) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (37) “dry cleaning” includes dry cleaning of apparels, garments or other textile, fur or leather articles;

- (38) “dry cleaner” means any commercial concern providing service in relation to dry cleaning;
- (39) “electronic form” has the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (40) “event management” means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, sports or any other event and includes any consultation provided in this regard;
- (41) “Event manager” means any person who is engaged in providing any service in relation to event management in any manner;
- (42) “facsimile (FAX)” means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system;
- (43) “fashion designing” includes any activity relating to conceptualizing, outlining, creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto;
- (44) “fashion designer” means any person engaged in providing service in relation to fashion designing;
- (45) “financial institution” has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
- (46) “foreign exchange broker” includes any authorised dealer of foreign exchange;
- (47) “franchise” means an agreement by which—
- (i) franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;
 - (ii) the franchisor provides concepts of business operation to franchisee, including know how, method of operation, managerial expertise, marketing technique or training and standards of quality control except passing on the ownership of all know how to franchisee;
 - (iii) the franchisee is required to pay to the franchisor, directly or indirectly, a fee; and
 - (iv) the franchisee is under an obligation not to engage in selling or providing similar goods or services or process, identified with any other person;
- (48) “franchisor” means any person who enters into franchise with a franchisee and includes any associate of franchisor or a person designated by franchisor to enter into franchise on his behalf and the term “franchisee” shall be construed accordingly;
- (49) “general insurance business” has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);
- (50) “goods” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930);
- (51) “health and fitness service” means service for physical well being such as, sauna and steam bath, turkish bath, solarium, spas, reducing or slimming saloons, gymnasium, yoga, meditation, message (excluding therapeutic massage) or any other like service;
- (52) “health club and fitness centre” means any establishment, including a hotel or a resort, providing health and fitness service;
- (53) “information” has the meaning assigned to it in clause (v) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (54) “insurance agent” has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (55) “insurance auxiliary service” means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment;
- (56) “intermediary or insurance intermediary” has the meaning assigned to it in clause (f) of sub-section (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);
- (57) “internet cafe” means a commercial establishment providing facility for accessing internet;
- (58) “insurer” means any person carrying on the general insurance business or life insurance business in

India;

- (59) "interior decorator" means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;
- (60) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the subscriber and includes a speech circuit, a data circuit or a telegraph circuit;
- (61) "life insurance business" has the meaning assigned to it in clause (11) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (62) "magnetic storage device" includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;
- (63) "maintenance or repair" means any service provided by—
 - (i) any person under a maintenance contract or agreement; or
 - (ii) a manufacturer or any person authorised by him,in relation to maintenance or repair or servicing of any goods or equipment, excluding motor vehicle;
- (64) "management consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;
- (65) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 (4 of 1882) and includes any furniture, fixtures, light fittings and floor coverings therein let out for a consideration for organising any official, social or business function;
- (66) "mandap keeper" means a person who allows temporary occupation of a mandap for a consideration for organising any official, social or business function;
- (67) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;
- (68) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;
- (69) "maxicab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (70) "motorcab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (71) "motor car" has the meaning assigned to it in clause (26) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (72) "motor vehicle" has the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (73) "non-banking financial company" has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
- (74) "on-line information and database access or retrieval" means providing data or information, retrievable or otherwise, to a customer, in electronic form through a computer network;
- (75) "other port" has the meaning assigned to "port" in clause (4) of section 3 of the Indian Ports Act, 1908 (15 of 1908), but does not include the port defined in clause (80);
- (76) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;
- (77) "photography" includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography;
- (78) "photography studio or agency" means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;

- (79) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (80) "port" has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);
- (81) "port service" means any service rendered by a port or other port or any person authorised by such port or other post, in any manner, in relation to a vessel or goods;
- (82) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy;
- (83) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy;
- (84) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship;
- (85) "prescribed" means prescribed by rules made under this Chapter;
- (86) "rail travel agent" means any person engaged in providing any service connected with booking of passage for travel by rail;
- (87) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;
- (88) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;
- (89) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (90) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;
- (91) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;
- (92) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (93) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;
- (94) "service tax" means tax leviable under the provisions of this Chapter;
- (95) "ship" means a sea-going vessel and includes a sailing vessel;
- (96) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;
- (97) "sound recording" means recording of sound on a magnetic storage device and includes editing thereof, in any manner;
- (98) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;
- (99) "steamer agent" means any person who undertakes, either directly or indirectly,—
- (i) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

- (ii) to book, advertise or canvass for cargo for or on behalf of a shipping line; or
- (iii) to provide container feeder services for or on behalf of a shipping line;
- (100) “stock-broker” means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (101) “storage and warehousing” includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage;
- (102) “sub-broker” means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;
- (103) “subscriber” means a person to whom any service of a telephone connection or a facsimile (FAX) or a released circuit or a pager or telegraph or a telex has been provided by the telegraph authority;
- (104) “taxable service” means any service provided,—
 - (a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;
 - (b) to a subscriber, by the telegraph authority in relation to a telephone connection;
 - (c) to a subscriber, by the telegraph authority in relation to a pager;
 - (d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;
 - (e) to a client, by an advertising agency in relation to advertisement, in any manner;
 - (f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;
 - (g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;
 - (h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;
 - (i) to a shipping line, by a steamer agent in relation to a ship’s husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;
 - (j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;
 - (k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner;
 - (l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;
 - (m) to a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;
 - (n) to any person, by a tour operator in relation to a tour;
 - (o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;
 - (p) to a client, by an architect in his professional capacity, in any manner;
 - (q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;
 - (r) to a client, by management consultant in connection with the management of any organisation, in any manner;
 - (s) to a client, by a practising chartered accountant in his professional capacity, in any manner;
 - (t) to a client, by a practising cost accountant in his professional capacity, in any manner;
 - (u) to a client, by a practising company secretary in his professional capacity, in any manner;
 - (v) to a client, by a real estate agent in relation to real estate;
 - (w) to a client, by a security agency in relation to the security of any property or person, by providing

security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity.

- (x) to a client, by a credit relating agency in relation to credit rating of any financial obligation, instrument or security;
- (y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;
- (z) to a client, by an underwriter in relation to underwriting, in any manner;
- (za) to a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;
- (zb) to a customer, by photography studio or agency in relation to photography, in any manner;
- (zc) to a client, by any commercial concern in relation to holding of a convention, in any manner;
- (zd) to a subscriber, by the telegraph authority in relation to a leased circuit;
- (ze) to a subscriber, by the telegraph authority in relation to a communication through telegraph;
- (zf) to a subscriber, by the telegraph authority in relation to a communication through telex;
- (zg) to a subscriber, by the telegraph authority in relation to a facsimile (FAX) communication;
- (zh) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;
- (zi) to a client, by a video production agency in relation to video-tape production, in any manner;
- (zj) to a client by a sound recording studio or agency in relation to any kind of sound recording;
- (zk) to a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges on behalf of the said agency or organisation.

Explanation—For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall be a taxable service in relation to broadcasting, even if the encryption of signals or beaming thereof through the satellite might have taken place outside India;

- (zl) to a policy holder or insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business;
- (zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;
- (zn) to any person, by a port or any person authorised by the port, in relation to port services, in any manner;
- (zo) to a customer, by an authorised service station, in relation to any service or repair of motor cars or two-wheeled motor vehicles, in any manner;
- (zp) to a customer, by a body corporate other than the body corporate referred to in sub-clause (zm), in relation to banking and other financial services;
- (zq) to a customer, by a beauty parlour in relation to beauty treatment;
- (zr) to any person, by a cargo handling agency in relation to cargo handling services;
- (zs) to a customer, by a cable operator in relation to cable services;
- (zt) to a customer, by a dry cleaner in relation to dry cleaning;
- (zu) to a client, by an event manager in relation to event management;
- (zv) to any person, by a fashion designer in relation to fashion designing;
- (zw) to any person, by a health club and fitness centre in relation to health and fitness services;
- (zx) to a policy holder, by an insurer carrying on life insurance business in relation to life insurance business;

- (zy) to a policy holder or insurer by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business;
- (zz) to a customer, by a rail travel agent in relation to booking of passage for travel by rail;
- (zza) to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods;
- (zzb) to a client, by a commercial concern in relation to business auxiliary service;
- (zzc) to any person, by a commercial training or coaching centre in relation to commercial training or coaching;
- (zzd) to a customer, by a commissioning and installation agency in relation to commissioning or installation;
- (zze) to a franchisee, by the franchisor in relation to franchise;
- (zzf) to any person, by an internet cafe in relation to access of internet;
- (zzg) to a customer, by any person in relation to maintenance or repair;
- (zzh) to any person, by a technical testing and analysis agency, in relation to technical testing and analysis;
- (zzi) to any person, by a technical inspection and certification agency, in relation to technical inspection and certification;
- (zzj) to a customer, by an authorised service station, in relation to any service or repair of any maxicab;
- (zzk) to a customer, by a foreign exchange broker other than those brokers in relation to banking and other financial services referred to in sub-clauses (zm) and (zp);
- (zzl) to any person, by other port or any person authorised by that port in relation to port services, in any manner,

and the term "service provider" shall be construed accordingly;

- (105) "technical testing and analysis" means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals;
- (106) "technical testing and analysis agency" means any agency or person engaged in providing service in relation to technical testing and analysis;
- (107) "technical inspection and certification" means inspection or examination of goods or process or material or any immovable property to certify that such goods or process or material or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not include any service in relation to inspection and certification of pollution levels;
- (108) "technical inspection and certification agency" means any agency or person engaged in providing service in relation to technical inspection and certification;
- (109) "telegraph" has the meaning assigned to it in clause (1) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);
- (110) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885) and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;
- (111) "telex" means a typed communication by using teleprinters through telex exchanges;
- (112) "tour" means a journey from one place to another irrespective of the distance between such places;
- (113) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (114) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder;
- (115) "underwriter" has the meaning assigned to it in clause (f) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;
- (116) "underwriting" has the meaning assigned to it in clause (g) of rule 2 of the Securities and

Exchange Board of India (Underwriters) Rules, 1993;

(117) "vessel" has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

(118) "video production agency" means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production;

(119) "video-tape production" means the process of any recording of any programme, event or function on a magnetic tape and includes editing thereof, in any manner;

(120) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be, in relating to service tax as they apply in relation to a duty of excise.

65A. *Classification of taxable services.*— (1) For the purposes of this Chapter, classification of taxable services shall be determined according to the terms of the sub-clause of clauses (104) of section 65.

(2) When for any reason, a taxable service is, *prima facie*, classifiable under two or more sub-clauses of clause (104) of section 65, classification shall be effected as follows:—

(a) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;

(b) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause (a), shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;

(c) when a service cannot be classified in the manner specified in clause (a) or clause (b), it shall be classified under the sub-clause which occurs first amongst the sub-clauses which equally merit consideration.”;

(b) for section 66, the following section shall be substituted, namely:—

“66. *Charge of service tax.*—(1) There shall be levied a tax (hereinafter referred to as the service tax) at the rate of eight per cent of the value of the taxable services referred to in sub-clauses (a), (b), (c), (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), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz) and (zza) of clause (104) of section 65 and collected in such manner as may be prescribed.

(2) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied a service tax at the rate of eight per cent of the value of the taxable services referred to in sub-clauses (zzb), (zzc), (zzd), (zze), (zzf), (zzg), (zzh), (zzi), (zzj), (zzk) and (zzl) of clause (104) of section 65 and collected in such manner as may be prescribed.”;

(c) in section 67, in the *Explanation*,—

(i) in clause (f), for the words “motor car”, the words “motor car, maxicab” shall be substituted;

(ii) for the portion beginning with the words “but does not include” and ending with the words “rail travel agent in respect of service provided by him”, the following shall be substituted, namely:—

“but does not include—

(i) initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telegraph or telex or for lease circuit;

(ii) the cost of unexposed photography film, unrecorded magnetic tape or such other storage devices, if any, sold to the client during the course of providing the service;

(iii) the cost of parts or accessories, or consumable such as lubricants and coolants, if any, sold to the customer during the course of service or repair of motor cars, maxicab or two wheeled motor vehicles;

(iv) the airfare collected by air travel agent in respect of service provided by him;

(v) the rail fare collected by rail travel agent in respect of service provided by him;

(vi) the cost of parts or other material, if any, sold to the customer during the course of providing maintenance or repair service; and

(vii) the cost of parts or other material, if any, sold to the customer during the course of providing commissioning or installation service.”;

(d) in section 73,—

(i) in sub-section (1), in the *Explanation*, for the words “six months”, the words “one year” shall be

substituted;

(ii) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Where any service tax has escaped assessment or has been under-assessed or service tax has not been paid or has been short paid or erroneously refunded, the person chargeable with the service tax may pay the amount of tax on the basis of his own ascertainment of such tax or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (1) in respect of service tax, and inform the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of service tax so paid:

Provided that the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise may determine the amount of short payment of tax, if any, which in his opinion has not been paid by such person and, then, the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise shall proceed to recover such amount in the manner specified in this section, and the period of ‘one year’ referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation 1.—Nothing contained in this sub-section shall apply to cases falling under clause (a) of sub-section (1).

Explanation 2.—For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax, if any, as may be determined by the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, but for this sub-section.

(2B) The provisions of sub-section (2A) shall not apply to any case where the service tax had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President.”;

(e) in section 78, for the proviso, the following shall be substituted, namely:—

Provided that where such service tax as determined under sub-section (2) of section 73, and the interest payable thereon under section 75, is paid within thirty days from the date of communication of order of the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise determining such service tax, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent of the service tax so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the service tax determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent of the consequential increase of penalty have also been paid within thirty days of communication of the order by which such increase in service tax takes effect.

Explanation.—For the removal of doubts, it is hereby declared that—

(1) the provisions of this section shall also apply to cases in which the order determining the service tax under sub-section (2) of section 73 relates to notices issued prior to the day on which the Finance Bill, 2003 receives the assent of the President;

(2) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.”

(f) in section 83, for the figures and letter “11D,” the figures and letters “11C, 11D, 12,” shall be substituted;

(g) in section 85, in sub-section (1), for the words “penalty under this Chapter”, the words “penalty or denying any refund of service tax under this Chapter” shall be substituted;

(h) in section 94, in sub-section (2), after clause (ee), the following clause shall be inserted, namely:—

“(eee) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service.”

(i) in section 95, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2003, 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 two years from the date on which the provisions of the Finance Act, 2003 incorporating such taxable services in this Chapter come into force.”;

(j) after Chapter V, the following Chapter shall be inserted, namely:—

‘Chapter VA

ADVANCE RULINGS

96A. *Definitions.*—In this Chapter, unless the context otherwise requires,—

- (a) “advance ruling” means the determination, by the Authority of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided, by the applicant;
- (b) “applicant” means—
 - (i) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or
 - (ii) a resident setting up a joint venture in India in collaboration with a non-resident; or
 - (iii) a wholly owned subsidiary Indian company, of which the holding company is a foreign company, who proposes to undertake any business activity in India and makes application for advance ruling;
- (c) “application” means an application made to the Authority under sub-section (1) of section 96C;
- (d) “Authority” means the Authority for Advance Rulings constituted under section 28F of the Customs Act, 1962 (52 of 1962);
- (e) “non-resident”, “Indian company” and “foreign company” have the meanings respectively assigned to them in clauses (30), (26) and (23A) of section 2 of the Income-tax Act, 1961 (43 of 1961);
- (f) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise.

96B. *Vacancies, etc., not to invalidate proceedings.*—No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

96C. *Application for advance ruling.*—(1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought shall be in respect of,—

- (a) classification of any service as a taxable service under Chapter V;
- (b) the valuation of taxable services for charging service tax;
- (c) the principles to be adopted for the purposes of determination of value of the taxable service under the provisions of Chapter V;
- (d) applicability of notifications issued under Chapter V;
- (e) admissibility of credit of service tax.

(3) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw an application within thirty days from the date of the application.

96D. *Procedure on receipt of application.*—(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records :

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Central Excise.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application :

Provided that the Authority shall not allow the application where the question raised in the application is,

- (a) already pending in the applicant's case before any Central Excise Officer, the Appellate Tribunal or any court;
- (b) the same as in a matter already decided by the Appellate Tribunal or any Court :

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard :

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner of Central Excise.

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, “authorised representative” has the meaning assigned to it in sub-section (2) of section 35Q of the Central Excise Act, 1944 (1 of 1944).

(6) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Central Excise, as soon as may be, after such pronouncement.

96E. *Applicability of advance ruling.*—(1) The advance ruling pronounced by the Authority under section 96D shall be binding only—

- (a) on the applicant who had sought it;
- (b) in respect of any matter referred to in sub-section (2) of section 96C;
- (c) on the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the applicant.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

96F. *Advance ruling to be void in certain circumstances.*—(1) Where the Authority finds, on a representation made to it by the Commissioner of Central Excise or otherwise, that an advance ruling pronounced by it under sub-section (4) of section 96D has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Chapter shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

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

96G. *Powers of Authority.*—(1) The Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code (45 of 1860).

96H. *Procedure of Authority.*—The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

96-I. *Power of Central Government to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the form and manner for making application under sub-section (1) of section 96C;
- (b) the manner of certifying a copy of advanced ruling pronounced by the Authority under sub-section (7) of section 96D;
- (c) any other matter which, by this Chapter, is to be or may be prescribed.

(3) Every rule made under this Chapter shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

152. *Amendment of notification issued under section 93 of Act 32 of 1994.*—(1) Notwithstanding the rescission of the notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. GSR 639(E), dated the 5th November, 1997, issued under section 93 of the Finance Act, 1994, by the Central Government, that notification shall stand amended and shall be deemed to have been amended in the manner specified in the Twelfth Schedule, on and from the 16th day of November, 1997 to the 1st day of June, 1998 (both days inclusive) retrospectively and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the notification as amended by this sub-section had been in force at all material times.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected if the amendment referred to in sub-section (1) had been in force at all material times.

(3) Notwithstanding anything contained in section 83 of the Finance Act, 1994 (32 of 1994), an application for claim of refund of the service tax under sub-section (2) shall be made within one year from the day on which the Finance Bill, 2003 receives the assent of the President.

(4) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under section 93 of the Finance Act, 1994 (32 of 1994) retrospectively at all material times.

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Chapter vi

CENTRAL SALES TAX

Amendment of section 6.

153. In the Central Sales Tax Act, 1956 (74 of 1956) (hereinafter referred to as the Central Sales Tax Act), in section 6, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in this Act, if—

- (a) any official or personnel of—
 - (i) any foreign diplomatic mission or consulate in India; or
 - (ii) the United Nations or any other similar international body, entitled to privileges under any convention to which India is a party or under any law for the time being in force; or

(b) any consular or diplomatic agent of any mission, the United Nations or other body referred to in sub-clause (i) or sub-clause (ii) of clause (a),

purchases any goods for himself or for the purposes of such mission, United Nations or other body, then, the Central Government may, by notification in the Official Gazette, exempt, subject to such conditions as may be specified in the notification, the tax payable on the sale of such goods under this Act.”.

Amendment of section 8.

154. In section 8 of the Central Sales Tax Act, in sub-section (1), for the portion beginning with the words “shall be liable” and ending with the words “whichever is lower”, the following shall be substituted, namely:—

“shall be liable to pay tax under this Act, with effect from such date as may be notified by the Central Government in the Official Gazette for this purpose, which shall be two per cent of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, or, as the case may be, under any enactment of that State imposing value added tax, whichever is lower :

Provided that the rate of tax payable under this sub-section by a dealer shall continue to be four per cent of his turnover, until the rate of two per cent takes effect under this sub-section.”.

Amendment of section 20.

155. In section 20 of the Central Sales Tax Act,—

(a) in sub-section (1), for the words and figure “section 9 of this Act”, the words and figure “section 9 of this Act, which relates to any dispute concerning the sale of goods effected in the course of inter-state trade or commerce” shall be substituted;

(b) in sub-section (2), for the portion beginning with the words “aggrieved against” and ending with the words and figure “section 9 of this Act”, the following shall be substituted namely:—

“under sub-section (1) within forty-five days from the date on which order referred to in that sub-section is served on him :

Provided that the Authority may entertain any appeal after the expiry of the said period of forty-five days, but not later than sixty days from the date of such service, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.”;

(c) sub-section (3) shall be omitted.

Amendment of section 21.

156. In section 21 of the Central Sales Tax Act,—

(a) in sub-section (1), for the portion beginning with the words “assessing authority concerned” and ending with the words “returned to the assessing authority”, the following shall be substituted, namely:—

“assessing authority concerned as well as to each State Government concerned with the appeal and to call upon them to furnish the relevant records :

Provided that such records shall, as soon as possible, be returned to the assessing authority or such State Government concerned, as the case may be.”;

(b) in sub-section (3), for the first proviso, the following proviso shall be substituted, namely:—

“**Provided** that no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorised representative, and also to the State Government concerned with the appeal of being heard.”.

Amendment of section 23.

157. In section 23 of the Central Sales Tax Act, for the words “in all matters”, the words “in all matters, including stay of recovery of any demand” shall be substituted.

Chapter VII

MISCELLANEOUS

Insertion of new sections 46B and 46C in Act 13 of 1989.

158. After section 46A of the Finance Act, 1989, the following sections shall be inserted, namely:—

‘46B. *Penalty for failure to pay inland air travel tax to credit of Central Government.*—If any carrier fails to pay to the credit of the Central Government, the inland air travel tax collected by him as required under the provisions of section 42, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

46C. *Offences by companies.*—(1) Where any offence under section 46B has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the said section, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 46B has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm;’.

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 121, 126, 127(b), 140, 147, 149, 159, 160 and 161 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

In the case of every individual 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. 50,000 | <i>Nil;</i> |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs 60,000 but does not exceed | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds |

Rs. 1,50,000	Rs. 60,000;
(4) where the total income exceeds	Rs. 19,000 <i>plus</i> 30 per cent of the amount
Rs. 1,50,000	by which the total income exceeds
	Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, 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 sixty thousand 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 five 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 five per cent of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding sixty thousand 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 sixty thousand rupees by more than the amount of income that exceeds sixty thousand 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.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of five 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.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 35 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 112 or section 113, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

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
	<i>income-tax</i>
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 “Interest on securities”	10 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 income by way of insurance commission	10 per cent;
(v) on 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 other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent;
(D) 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
(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 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 winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent;
(C) on income by way of winnings from horse races	30 per cent;
(D) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent;
(E) 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	20 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 | 20 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 | 20;per cent; |
| (vii) | on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10] | 20 per cent |
| (viii) | 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 eight hundred and fifty thousand rupees;
 - (ii) in the case of every co-operative society, firm and local authority, at the rate of two and one-half per cent of such tax;
 - (iii) 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;
- (B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated at the rate of two and one-half per cent of such income-tax.

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 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 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual 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. 50,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 1,50,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in 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 eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIIIA, 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 eight hundred and fifty thousand 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 eight hundred and fifty thousand rupees pay more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|-------------------------------------|----------------------------------|
| (1) where the total income does not | 10 per cent of the total income; |
|-------------------------------------|----------------------------------|

exceed Rs. 10,000

- | | |
|------------------------------------|---|
| (2) where the total income exceeds | Rs. 1,000 <i>plus</i> 20 per cent of the amount |
| Rs. 10,000 but does not exceed | by which the total income exceeds |
| Rs. 20,000 | Rs. 10,000; |
| (3) where the total income exceeds | Rs. 3,000 <i>plus</i> 30 per cent of the amount |
| Rs. 20,000 | by which the total income exceeds |
| | Rs. 20,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half 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.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

- | | | |
|-----|---|----------------------------------|
| I. | In the case of a domestic company | 35 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, 50 per cent;

in either case, been approved by the Central Government

(ii) on the balance, if any, of the 40 per cent

total income

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

PART IV

[See section 2(11)(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) of 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, 2003, 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, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or 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, 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, 1995, 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, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or 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,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, 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, 1997 or the 1st day of April, 1998 or 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,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, 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, 1998 or 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,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (v) 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,
- (vi) 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,
- (vii) 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,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002,

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, 2003.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, 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, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or 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, is a loss, then, for the purposes of sub-section (9) 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, 1996, 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, 1997 or the 1st day of April, 1998 or 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,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, 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, 1998 or 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,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 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,
- (iv) 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,
- (v) 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,
- (vi) 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,
- (vii) 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,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

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, 2004.

(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, 1995 (22 of 1995), or of the First Schedule to the Finance (No.2) Act, 1996 (33 of 1996), or of the First

Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No.2) Act, 1998 (21 of 1998), or 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), 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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THE TWELFTH SCHEDULE

[See section 152(1)]

<i>Notification No. and date</i>	<i>Amendment</i>	<i>Date of effect of amendment</i>
(1)	(2)	(3)
G.S.R. 639(E), dated the 5th November, 1997 [43/97-Service Tax, dated 5th November, 1997]	In the said notification, in the opening paragraph,— (a) for clause (i) and (ii), the following clauses shall be substituted, namely:— “(i) any factory registered under or governed by the Factories Act, 1948(63 of 1948), other than a factory registered as small scale industry with the State Government; (ii) any company established by or under the Companies Act, 1956 (1 of 1956), other than a company which is solely and exclusively a trading company and is also registered as a private limited company;”; (b) clause (viii) shall be omitted.	16th November, 1997.

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STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to give effect to the financial proposals of the Central Government for the financial year 2003-2004. The notes on clauses explain the various provisions contained in the Bill.

Jaswant Singh

New Delhi;

the 28th February, 2003.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF
THE CONSTITUTION OF INDIA**

[Copy of letter No. F 2(6)-B(D)/2003, dated the 28th February, 2003 from Shri Jaswant Singh, Minister of Finance and Company Affairs, to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clause (1) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Finance Bill, 2003 to the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

2. The Bill will be introduced in the Lok Sabha immediately after the presentation of the Budget on the 28th February, 2003.

[\[p1\]](#)*Relevant Extracts