Business Standard

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Budget 2009

Explanatory Memorandum & Finance Bill

PHOTO: SURYAKANT NIWATE

THE BRIDGE OF GOOD HOPE

After years of delays and legal wrangling, India's first sea bridge has opened to traffic, raising hopes of less congestion on Mumbai's roads. There is optimism that, as well as showing off India's engineering prowess, this bridge will inspire other projects elsewhere. Policy makers have identified infrastructure bottlenecks as the impediments to taking the economy back to the near-double-digit growth of recent years.

FINANCE (NO.2) BILL, 2009

PROVISIONS RELATING TO DIRECT TAXES

Introduction

The provisions of the Finance (No.2) Bill, 2009 relating to direct taxes seek to amend the Income-tax Act, inter alia, with a view to,—

(i) Lowering the burden on the individual taxpayers by increasing the basic exemption limit available to the taxpayers.

(ii) Introducing simplified presumptive tax scheme for small businesses.

(iii) Encouraging the growth of foreign investment in India by providing for a speedy dispute resolution mechanism.

(iv) Improving efficiency of the tax system by providing for investment linked tax incentives for certain sectors.

(v) Focussing on tax administration by improving the standards of service delivery and transparency in the functioning.

(vi) Simplification and rationalization of provisions relating to TDS.

2. The Finance (No.2) Bill, 2009 seeks to prescribe the rates of income-tax on incomes liable to tax for the assessment year 2009-10; the rates at which tax will be deductible at source during the financial year 2009-10 from interest (including interest on securities), winnings from lotteries or crossword puzzles, winnings from horse races, card games and other categories of income liable to deduction or collection of tax at source under the Income-tax Act; rates for computation of "advance tax", deduction of income-tax from or payment of tax on 'Salaries' and charging of income-tax on current incomes in certain cases for the financial year 2009-10.

3. Subject to certain exceptions, which have been indicated while dealing with the relevant provisions, changes in the provisions of the tax laws are ordinarily proposed to be prospective in their operation.

4. The substance of the main provisions of the Bill relating to direct taxes is explained in the following paragraphs.

INCOME-TAX

Rates of Income-tax

I. Rates of income-tax in respect of income liable to tax for the assessment year 2009-10

In respect of income of all categories of assessees liable to tax for the assessment year 2009-2010, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to the Finance Act, 2008, for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases.

(1) Surcharge on income-tax—

It has also been specified therein that in the case of individuals, Hindu undivided families, association of persons and body of individuals having total income exceeding Rs. 10,00,000/-, the tax so computed shall be enhanced by a surcharge at the rate of ten per cent. for purposes of the Union.

In the case of artificial juridical person, the tax so computed shall be enhanced by a surcharge of ten per cent. on all levels of income.

In the case of local authority and co-operative society, no surcharge is levied.

In the case of every firm and domestic company, surcharge at the rate of ten per cent. shall be levied only in cases where the total income exceeds one crore rupees. In case of every company, other than a domestic company, surcharge at the rate of two and one-half per cent. shall be levied only in cases where the total income exceeds one crore rupees. However, marginal relief shall be allowed in all these cases to ensure that the additional amount of income-tax payable, including surcharge, on the excess of income over one crore rupees is limited to the amount by which the income is more than one crore rupees.

Also, in the case of every company having total income chargeable to tax under section 115JB of the Income Tax Act and where such income exceeds one crore rupees, marginal relief shall be provided.

(2) Surcharge on fringe benefit tax—

In respect of fringe benefits chargeable to tax under section 115WA of the Income Tax Act, for assessment year 2009-10, surcharge shall be levied as follows-

(a) in the case of every association of persons and body of individuals, at the rate of ten per cent. of the amount of tax, where the total fringe benefits exceed ten lakh rupees.

(b) in the case of every firm, artificial juridical person and domestic company, at the rate of ten per cent. of the amount of tax, irrespective of the amount of fringe benefits.

(c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of the amount of tax, irrespective of the amount of fringe benefits.

(3) Education cess—

For assessment year 2009-10, additional surcharge called the "Education Cess on Income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied for the purposes of the Union at the rate of two per cent. and one per cent. respectively, on the amount of tax computed, inclusive of surcharge, in all cases. No marginal relief shall be available in respect of such Cess.

II. Rates for deduction of income-tax at source during the financial year 2009-10 from certain incomes other than "Salaries"

The rates for deduction of income-tax at source during the financial year 2009-10 from certain incomes other than "Salaries" have been specified in Part II of the First Schedule to the Bill. The rates for persons not resident in India, including companies other than domestic companies, are the same as those specified in Part II of the First Schedule to the Finance Act, 2008, for the purposes of deduction of income-tax at source during the financial year 2008-2009. For resident tax payers, some of the rates have been reduced in order to converge most rates to 10 per cent.

(1) Surcharge—

The amount of tax so deducted in the case of every company other than a domestic company shall continue to be increased by a surcharge at the rate of two and one-half per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

Levy of surcharge has been withdrawn on deductions in all other cases.

(2) Education Cess—

"Education Cess on Income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied for the purposes of Union at the rate of two per cent. and one per cent. respectively of income-tax only in the cases of persons not resident in India, including companies other than domestic companies and in the cases of deductions on payment of salary.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2009-10

The rates for deduction of income-tax at source from "Salaries" during the financial year 2009-10 and also for computation of "advance tax" payable during the said year in the case of all categories of assessees have been specified in Part III of the First Schedule to the Bill.

These rates are also applicable for charging income-tax during the financial year 2009-10 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessments of shipping-profits arising in India to non-residents, assessments of persons leaving India for good during that financial year, assessments of persons who are likely to transfer property to avoid tax, assessments of bodies formed for a short duration etc.

The salient features of the rates specified in the said Part III are indicated in the following paragraphs—

A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person

The rates of income-tax in the case of every individual or Hindu undivided family or every 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 Part III applies) have been specified in Paragraph A of Part III of the First Schedule.

The basic exemption is proposed to be increased from Rs. 1,50,000/- to Rs. 1,60,000/-. The new rates of income-tax on total income in such cases shall be as under—

Upto Rs. 1,60,000/-	Nil.
Rs. 1,60,001/- to Rs. 3,00,000/-	10 per cent.
Rs. 3,00,001/- to Rs. 5,00,000/-	20 per cent.
Above Rs. 5,00,000/-	30 per cent.

In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year, the exemption limit is proposed to be raised from Rs. 1,80,000/- to Rs. 1,90,000/-. The new rates of income-tax on total income in such cases will be as under—

Upto Rs. 1,90,000/-	Nil.
Rs. 1,90,001/- to Rs. 3,00,000/-	10 per cent.
Rs. 3,00,001/- to Rs. 5,00,000/-	20 per cent.
Above Rs. 5,00,000/-	30 per cent.

In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, the exemption limit is proposed to be raised from Rs. 2,25,000/- to Rs. 2,40,000/-. The new rates of income-tax on total income in such cases will be as under—

Upto Rs. 2,40,000/-	Nil.
Rs. 2,40,001/- to Rs. 3,00,000/-	10 per cent.
Rs. 3,00,001/- to Rs.5,00,000/-	20 per cent.
Above Rs. 5,00,000/-	30 per cent.

No surcharge shall be levied in the cases of persons covered under Paragraph A of Part-III of the First Schedule.

B. Co-operative Societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for assessment year 2009-10. No surcharge will be levied.

C. Firms

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for assessment year 2009-10.

However, now no surcharge shall be levied in the case of a firm.

D. Local authorities

The rate of income-tax in the case of every local authority is specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the assessment year 2009-10. No surcharge will be levied.

E. Companies

The rates of income-tax in the case of companies are specified in Paragraph E of Part III of the First Schedule to the Bill. These rates are the same as those specified for the assessment year 2009-10.

It has been provided that the amount of income-tax computed shall, in the case of every domestic company having total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income tax. In the case of every company, other than a domestic company having total income exceeding one crore rupees, 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.

However, in such cases, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

For financial year 2009-10, additional surcharge called the "Education Cess on Income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied for the purposes of Union at the rate of two per cent. and one per cent. respectively, on the amount of tax computed, inclusive of surcharge, in all cases. No marginal relief shall be available in respect of such Cess.

[Clause 2]

Deduction in respect of Interest on loan taken for higher education

Section 80E of the Income-tax Act provides for a deduction to an assessee, being an individual, on account of any amount paid by him in the previous year by way of interest on loan taken from any financial institution or any approved charitable institution for the purpose of pursuing higher education in specified fields of study.

Under the existing provisions, the deduction is available only for pursuing full time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics.

With the objective of fostering human capital formation in the country, it is proposed to amend the provisions of section 80E of the Income Tax Act so as to extend its scope to cover all fields of studies (including vocational studies) pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so.

This amendment will take effect from 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years.

[Clause 32]

Deduction for medical treatment of a dependent suffering from disability

Section 80-DD of the Income Tax Act provides for a deduction to an individual or HUF, who is a resident in India, in respect of the following:—

(a) Expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; and

(b) Amount paid to LIC or other insurance in respect of a scheme for the maintenance of a disabled dependant.

The present limit for deduction is Rs.50,000 if the dependant is suffering from disability and Rs.75,000 if the dependant is suffering from severe disability.

It is proposed to increase the limit for severe disability to Rs.1 lakh. However, the limit for ordinary disability is proposed to be retained at the existing level of Rs.50,000.

The above amendment shall be made effective from the 1st day of April, 2010 and will accordingly apply in respect of assessment year 2010-11 and subsequent years. [Clause 31]

Enhancement of the limit for payment of advance tax

Under the existing provisions of section 208 the Income-tax Act, liability for payment of advance tax during a financial year arises when the amount of such tax payable during that year is five thousand rupees or more. This limit was fixed in 1996.

With a view to providing for inflation adjustment, it is proposed to raise the threshold limit for payment of advance tax from the present five thousand rupees to ten thousand rupees.

The proposed amendment will take effect from the 1st April, 2009. Accordingly, advance-tax for the financial year 2009-2010 would be payable only if the advance tax liability is Rs. 10,000/- or more.
[Clause 70]

Enhancement of the limit for payment of wealth tax

Under the existing provisions of section 3 of the Wealth-tax Act, wealth tax is charged every year in respect of net wealth, on the valuation date, of every individual, Hindu undivided family and company at the rate of one per cent. of the amount by which the net wealth exceeds fifteen lakh rupees. This limit was fixed in 1992.

With a view to providing for inflation-adjustment, it is proposed to raise the threshold limit for payment of wealth tax from fifteen lakh rupees to thirty lakh rupees.

The proposed amendment will apply for the valuation of net wealth as on 31st March, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 82]

Enhancement of limit for disallowance of expenditure made in the case of transporters

Under the existing provisions of the Income-tax Act, where an assessee incurs any expenditure, in respect of which payment in excess of Rs 20,000 is made otherwise than by an account payee cheque or account payee bank draft, such expenditure is not allowed as a deduction.

Given the special circumstances of transport operators for incurring expenditure on long haul journeys, it is proposed to raise the limit of payment to such transport operators otherwise than by an account payee cheque or account payee bank draft to Rs 35,000/- from the existing limit of Rs 20,000/-. For this purpose a new proviso is proposed to be inserted after the proviso in sub-section (3A) of section 40A of the Income-tax Act.

The existing limit for other categories of payments will remain at Rs 20,000/- subject to the exceptions declared in Rule 6DD of the Income-tax Rules.

The proposed amendment will apply to transactions effected on or after the 1st October, 2009.
[Clause 16]

Extension of time limit for filing applications for tax exemption under section 10(23C)

Clause (23C) of section 10 stipulates that income of institutions specified under its various sub-clauses shall be exempt from income-tax. In certain cases, approvals are required to be taken from prescribed authorities, in the prescribed manner, to become eligible for claiming exemption.

Under the existing provisions, any institution (having receipts of more than rupees one crore) has to make an application for seeking exemption at any time during the financial year for which the exemption is sought.

In practice, an eligible institution has to anticipate its annual receipts to decide whether the application for exemption is required to be filed or not. This has often led to avoidable hardship.

In order to mitigate this hardship it is proposed to extend the time limit for filing such application to the 30th day of September in the succeeding financial year. It is proposed to provide this relaxation for the financial year 2008-2009 and subsequent years. In other words, where the gross receipts of a trust or institution exceeds rupees one crore in the financial year 2008-2009, it can file the application for exemption uptill 30th September, 2009. [Clause 4]

Amendment to include certain activities within the ambit of provisions relating to'charitable purpose' in the Income Tax Act

For the purposes of the Income-tax Act, "charitable purpose" has been defined in section 2(15) of the Income–tax Act to include (a) relief of the poor, (b) education, (c) medical relief and, (d) the advancement of any other object of general public utility. However, the "advancement of any other object of general public utility" shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.

It is now proposed to amend clause 15 of section 2 so as to separately list the preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest so that they would be excluded from the applicability of the aforesaid conditions which are applicable to the "advancement of any other object of general public utility".

The proposed amendment shall be applicable with retrospective effect from 1st April, 2009 and will accordingly apply in respect of assessment year 2009-2010 and subsequent years. [Clause 3]

Tax relief on anonymous donations in certain cases

Under the current provisions of section 115BBC, wholly religious entities are outside the purview of taxation of anonymous donations. Partly religious and partly charitable entities have also been exempted from the taxation of anonymous donations, except where the anonymous donation is made to an educational or medical institution run by such entity in which case such donations are taxed at the rate of 30 per cent. In the case of wholly charitable entities, all anonymous donations are taxed at the rate of 30 per cent.

In order to mitigate the compliance burden, it is proposed to provide relief to such organizations by exempting a part of the anonymous donations from being taxed. The proposed amendment will result in the following:—

1. Anonymous donations received by wholly religious institutions shall remain exempt from tax.
2. In the case of partly religious and partly charitable institutions, anonymous donations directed towards a medical or educational institutions run by such entities shall be taxable only to the extent such donations exceed 5 per cent. of total income of such trust or institution or a sum of Rs.1 lakh, whichever is more.
3. In the case of wholly charitable institutions, anonymous donations shall be taxable to the extent such donations exceed 5 per cent. of total income of such trusts/institution or a sum of Rs.1 lakh, whichever is more.

The proposed amendments will be applicable with effect from the 1st day of April, 2010 and will accordingly apply in relation to assessment year 2010-11 and subsequent years. [Clause 42]

PHOTO SANJAY K SHARMA

METRO: Light at the end of the tunnel. The fruition of an ambitious plan to establish mass rapid transport systems across major cities would, indeed, achieve the aim of decongesting choked roads and an overloaded public transport.

Remuneration to partners in a firm

Under the existing provisions of the Income-tax Act, the payment of salary, bonus, commission or remuneration (hereinafter referred to as "remuneration") to a working partner of a partnership firm is allowed as deduction if it is authorised by the partnership deed and subject to the overall ceiling of monetary limits prescribed under sub-clause (v) of clause (b) of section 40. The existing limits are as under:

(1) in case of a firm carrying on a profession—

(a) on the first Rs. 1,00,000 of the book-profit or in case of a loss — Rs. 50,000 or at the rate of 90 per cent of the book-profit, whichever is more;

(b) on the next Rs. 1,00,000 of the book-profit — at the rate of 60 per cent;

(c) on the balance of the book-profit — at the rate of 40 per cent;

(2) in the case of any other firm—

(a) on the first Rs. 75,000 of the book-profit, or in case of a loss — Rs. 50,000 or at the rate of 90 per cent of the book-profit, whichever is more;

(b) on the next Rs. 75,000 of the book-profit — at the rate of 60 per cent;

(c) on the balance of the book-profit — at the rate of 40 per cent:

It is proposed to make upward revision of the existing limits of the remuneration. It is also proposed to prescribe uniform limits for both professional and non professional firms for simplicity and administrative ease. The revised limits are proposed to be as under:

(a) on the first Rs. 3,00,000 of the book-profit or in case of a loss — Rs. 1,50,000 or at the rate of 90 per cent of the book-profit, whichever is more;

(b) on the balance of the book-profit — at the rate of 60 per cent;

The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 15]

Recognition to Provident funds – Extension of time limit for obtaining Exemption from EPFO

Rule 4 of Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act.

Rule 3 of Part A of the Fourth Schedule provides that the chief Commissioner or the Commissioner of Income-tax may accord recognition to any provident fund which satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf.

The proviso to sub-rule (1) of the said rule 3, inter alia, specifies that in a case where recognition has been accorded to any provident fund on or before the 31st day of March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before the 31st day of March, 2009, the recognition to such fund shall be withdrawn. One of the requirements of this clause (ea) of rule 4 is that the establishment shall obtain exemption under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act).

With a view to provide further time to Employees' Provident Fund Organization (EPFO) to decide on the pending applications seeking exemption under section 17 of the EPF & MP Act, it is proposed to amend the said proviso so as to extend the time limit from the 31st day of March, 2009 to the 31st day of December, 2010.

This amendment will take effect from 1st April, 2009. [Clause 80]

Weighted deduction for in-house research and development

Under the existing provisions of the Income-tax Act, under sub-section (2AB) of section 35, weighted deduction of 150 per cent. is allowed to a company engaged in the business of biotechnology or in the business of manufacture or production of drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board and which has incurred expenditure (excepting on land and building) on in-house scientific research and development facility approved by the prescribed authority.

With a view to promoting research and development in all sectors of the economy, it is proposed to extend the benefit of weighted deduction to companies engaged in the business of manufacture or production of an article or thing except those specified in the Eleventh Schedule of the Income-tax Act.

The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. In other words, expenditure on research and development incurred by the company during the financial year 2009-2010, will be eligible for aforesaid weighted deduction under section 35(2AB) of the Income-tax Act.

[Clause 12]

Donations to Certain Funds, Charitable Institutions, etc.

Section 80G of the Income-tax Act, 1961 provides for a deduction in respect of donations to certain funds, charitable institutions, etc. subject to, inter alia, the condition that such intitutions and trusts are establish for 'charitable purpose'.

Consequent to the amendment of sub-section (15) of section 2 by the Finance Act 2008 a number of organizations have ceased to be charitable for the purposes of the Income-tax Act. However, such institutions and trusts continued to collect donation during the financial year 2008-2009 for funding relief work for floods in Bihar and other public purposes. The donors made these donations under a bonafide belief that they would be entitled to benefit under section 80-G. With a view to mitigate hardship to the donors, it it is proposed to give a onetime relaxation and amend sub-section (5) of section 80G of the Income-tax Act so as to provide that where an institution or fund has been approved under clause (vi) of sub-section 5 of section 80G for the previous year beginning on the 1st day of April 2007 and ending on the 31st day of March, 2008, such institution or fund shall, notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been,-

(a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;

(b) approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009.

This amendment will take effect from 1st day of April, 2009 and shall accordingly, apply in relation to assessment year 2009-10 only.

Further as per clause (vi) of sub-section (5) of section 80G of the Income-tax Act, 1961, the institutions or funds to which the donations are made have to be approved by the Commissioner of Income-tax in accordance with the rules prescribed in rule 11AA of the Income-tax Rule, 1962. The proviso to this clause provides that any approval granted under this clause shall have effect for such assessment year or years, not exceeding five assessment years, as may be specified in the approval.

Due to this limitation imposed on the validity of such approvals, the approved institutions or funds have to bear the hardship of getting their approvals renewed from time to time. This is unduly burdensome for the bonafide institutions or funds and also leads to wastage of time and resources of the tax administration in renewing such approvals in a routine manner.

Therefore, it is proposed to omit the proviso to clause (vi) of sub-section (5) of section 80G to provide that the approval once granted shall continue to be valid in perpetuity. Further, the Commissioner will also have the power of withdraw the approval if the Commissioner is satisfied that the activities of such institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund.

This amendment will take effect from 1st day of October, 2009. Accordingly, existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawan. However, in case of approvals expiring before 1st October, 2009, these will have to be renewed and once renewed these shall continue to be valid in perpetuity, unless specifically withdrawan.

[Clause 33]

Power to withdraw approvals

Under the existing provisions of Income-tax Act, an approval is required to be granted by income-tax authority for availing of various incentives by the assessee. While some provisions of Income-tax Act specifically contain provisions for withdrawal of approval but in many cases there is no such specific provisions containing power of withdrawal.

In order to provide explicit provisions for power to withdraw of approval, it is proposed to insert a new section 293C to provide that an approval granting authority shall also have the powers to withdraw the approval at any time. However, such withdrawal can be made only after giving a reasonable opportunity of showing cause against be proposed withdrawal to the concerned assessee.

This amendment will take effect from 1st October, 2009. [Clause 78]

Power to issue Zero Coupon Bonds

Under the existing provision of clause (48) of section 2, only infrastructure capital company or infrastructure capital fund or public sector company are empowered to issue zero coupon bonds when they are authorized to do so.

With a view to empower the scheduled banks including nationalized banks to issue zero coupon bonds to source their long term funds, it is proposed to amend the section so as to include the scheduled banks as an eligible person to issue zero coupon bonds.

Further, it is proposed to make consequential amendments in Explanation to clause (iiia) of sub-section (1) of section 36 and in clause (x) of sub-section (3) of section 194A of the Income-tax Act.

These amendments will take effect from 1st April, 2009. [Clauses 3,14,59]

Amendment in Part B of the Thirteenth Schedule to the Income Tax Act, 1961

Part-B of the Thirteenth Schedule to the Income-tax Act, 1961 provides for a list of activities or articles or things, the production or manufacture of which is not permissible if an undertaking wishes to avail a deduction under section 80-IC in respect of undertakings located in the states of Himachal Pradesh and Uttaranchal.

The Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry has issued a notification F.No.3(1)/2003-SPS dated 27.6.2008 expanding the list of items in respect of the paper industry for which tax holiday cannot be availed by new units located in Himachal Pradesh and Uttaranchal.

In order to align the provisions of the Income-tax Act, 1961 with the overall industrial policy of DIPP in respect of these two States, it is proposed to amend Part B of the Thirteenth Schedule to the Income-tax Act and substitute Sl.No.19 of Part B of the Thirteenth Schedule pertaining to the paper industry with the list as per the notification dated 27.6.2008 of the DIPP.

This amendment will take effect from the 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 81]

Deduction in respect of contributions to political parties

Section 80GGB and section 80GGC of the Income-tax Act, 1961 provide for deduction in respect of contributions given to political parties by companies and any person respectively.

With a view to reforming the system of funding of political parties it is proposed to amend section 80GGB and section 80GGC of the Income-tax Act, 1961 to provide that donations to electoral trusts shall be allowed as a 100 percent deduction in the computation of the income of the donor. It is also proposed to consequently amend sub-clause (iia) of clause (24) of section 2 of the Income-tax Act to provide that donations to such electoral trusts shall be treated as income of the trusts which will be specifically exempt as per the newly inserted section 13B and not included in the total income of the previous year if:-

(a) the electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during previous year 95 percent of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous years

(b) the electoral trust functions in accordance with the rules made in this regard by the Central Government.

Further, "eletoral trust" has been defined in the new clause (22AAA) of section 2 as a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.

These amendments will take effect from 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clauses 3,4,8,34,35]

Investment-linked tax incentive for specified business

The Income-tax Act provides for a number of profit-linked exemptions/deductions. Such benefits are inefficent, inequitable, impose higher compliance and administrative burden, result in revenue loss, increase litigations and lead to competitive demand for similar tax benefits. Further, these benefits also encourage diversion of proifits from the taxed sector to the exempt/untaxed sector. However, investment-linked incentives are relatively less distortionary in their impact.

With a view to creating rural infrastructure and environment friendly alternate means of transportation for bulk goods, it is proposed to provide investment-linked tax incentive by inserting a new section 35AD in the Income-tax Act for the following businesses:—

(a) setting up and operating cold chain facilities for specified products;

(b) setting up and operating warehousing facilities for storage of agricultural produce;

(c) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

The salient features of the new regime of investment-linked tax incentives are the following:—

(i) 100 per cent. deduction would be allowed in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of the specified business during the previous year in which such expenditure is incurred.

(ii) The expenditure of capital nature shall not include any expenditure incurred on acquisition of any land or goodwill or financial instrument.

(iii) The benefit will be available—

(a) in a case where the business relates to laying and operating a cross country natural gas pipeline network for distribution, if such business commences its operations on or after the 1st day of April, 2007 and

(b) in any other case, if such business commences its operation on or after the 1st day of April, 2009.

(iv) The assessee shall not be allowed any deduction in respect of the specified business under the provisions of Chapter VIA;

(v) No deduction in respect of the expenditure in respect of which deduction has been claimed shall be allowed to the assessee under any other provisions of the Income-tax Act.

(vi) Any sum received or receivable on account of any capital asset, in respect of which deduction has been allowed under section 35AD, being demolished, destroyed, discarded or transferred shall be treated as income of the assessee and chargeable to income tax under the head "Profits and gains of business or profession".

(vii) Any loss computed in respect of the specified business shall not be set off except against profits and gains, if any, of any other specified business. To the extent the loss is unabsorbed the same will be carried forward for set off against profits and gains from any specified business in the following assessment year and so on.

Further, profit-linked deduction provided under section 80-IA to the business of laying and operating a cross country natural gas distribution network will be discontiuned. As a result, any person availaing of this incentive can avail of the benefit under the proposed section 35AD. All capital expenditure (other than on land, goodwill and financial instrument), to the extent capitalized in the books as on 1st April, 2009 will be fully allowed as a deduction in the computation of total income of the said business for the previous year 2009-2010. This will be available in addition to any other capital expenditure (excluding land, goodwill and financial instrucment) incurred during such previous year.

It is also proposed to amend the provisions of section 43 and section 50B of the Income-tax Act to make consequential changes.

These amendments are proposed to be made effective from the 1st day of April, 2010 and will accordingly apply in respect of assessment year 2010-11 and subsequent assessment years.
[Clauses 10,13,17,24,28]

Extension of sunset clause for tax holiday under section 80-IA

Under the existing provisions of clause (v) of sub-section (4) of section 80-IA, an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant is eligible for 10 year tax benefit if it fulfils the following conditions:-

(i) such company is formed before 30.11.2005 with majority equity participation by public sector companies for enforcing the security interest of the lenders to the company owning the power generating plant;

(ii) such Indian company is notified by the Central Government before 31.12.2005; and

(iii) the undertaking begins to generate or transmit or distribute power before 31st March, 2008.

It is proposed to amend sub-clause (b) of clause (v) of sub-section (4) of section 80-IA to extend the terminal date for commencing the activity of generation, transmission or distribution of power in case of such undertaking from 31.3.2008 to 31.3.2011.

This amendment will take effect retrospectively from 1st day of April, 2008 and shall accordingly, apply in relation to assessment year 2008-09 and subsequent years.

Further, under section 80-IA, the provisions of clause (iv) of sub-section (4) provides for a deduction

of profits and gains of an undertaking,—

(a) which is set up for the generation and distribution of power if it begins to generate power at any time during the period beginning on 1-4-1993 and ending on 31-03-2010;

(b) which starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1-4-1999 and ending on 31-03-2010;

(c) which undertakes substantial renovation and modernization of existing network of transmission or distribution lines at any time during the period beginning on 1-4-2004 and ending on 31-03-2010.

It is proposed to amend clause (iv) of sub-section (4) of section 80-IA to extend the terminal date for a further period of one year upto 31-03-2011.

This amendment will take effect retrospectively from 1st day of April, 2009 and shall accordingly apply in relation to assessment year 2009-10 and subsequent assessment years. [Clause 36]

Amendment in Chapter VIA to prevent abuse of tax incentives

The profit linked deductions in Chapter VIA are prone to considerable misuse. Further, since the scope of the deductions under various provisions of Chapter VIA overlap, the taxpayers, at times, claim multiple deductions for the same profits.

With a view to preventing such misuse, it is proposed to amend the provisions of section 80A of the Income-tax Act to provide the following, namely:-

(i) deduction in respect of profits and gains shall not be allowed under any provisions of section 10A or section 10AA or section 10B or section 10BA or under any provisions of Chapter VIA under the heading "C.-Deductions in respect of certain incomes" in any assessment year, if a deduction in respect of same amount under any of the aforesaid has been allowed in the same assessment year;

(ii) the aggregate of the deductions under the various provisions referred to in (i) above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be;

(iii) no deductions under the various provisions referred to in (i) above, shall be allowed if the deduction has not been claimed in the return of income;

These amendments will take effect retrospectively from the 1st April, 2003, and will accordingly apply in relation to assessment year 2003-2004 and subsequent years.

Further it is also proposed to amend section 80A to provide that the transfer price of goods and services between the undertaking or unit or enterprise or eligible business and any other undertaking or unit or enterprise or business of the assessee shall be determined at the market value of such goods or services as on the date of transfer. Further, the expression "market value" has been defined to mean,-

(a) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(b) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject ot statotory or regulatory restrictions, if any.

This amendment will take effect from 1st April, 2009 and will accordingly apply to all cases where the proceeding are pending before any authority on or after such date.

Further, with a view to preventing the mususe of the tax holiday under section 80-IA of the Income-tax Act, it is proposed to amend the Explanation to the said section to clarify that nothing contained in the said section shall apply in relation to a business referred to in sub-section (4) of the said section which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by an undertaking or enterprise referred to in sub-section (1) thereof.

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [Clauses 29,36]

Deduction in respect of profits and gains from undertakings engaged in commercialproduction of mineral oil and natural gas

Sub-section (9) of section 80-IB of the Income Tax Act, 1961 provides for deduction in respect of profits and gains derived from commercial production or refining of mineral oil. The deduction under this sub-section is available to an undertaking for a period of seven consecutive assessment years including the initial assessment year-

(i) in which the commercial production under production sharing contract has first started; or

(ii) in which the refining of mineral oil has begun.

However, no deduction under this sub-section is available to an undertaking which begins refining of mineral oil on or after the 1st day of April, 2009 unless such undertaking fulfils all the following conditions as provided in the third proviso to this sub-section, namely:-

(i) It is wholly owned by a public sector company or any other company in which a public sector company or companies hold at least forty-nine percent of the voting rights;

(ii) It is notified by the Central Government in this behalf on or before the 31 day of May, 2008; and

(iii) It begins refining not later than the 31st day of March, 2012.

Under the existing provisions, it is incumbent on refineries in the private sector to commence refining of mineral oil on or before the 31st March, 2009. The notice given to private sector entrepreneurs to complete the execution of their refinery project was extremely short. As a result, entrepreneurs who had undertaken substantial investment in anticipation of the tax holiday suffered serious financial setback. Therefore, it is proposed to amend the provisions of sub-section (9) so as to allow them a further period of three years i.e. upto the 31st March, 2012 to begin refining of mineral oil and avail of the tax benefit. The new terminal date will be the same for both the public and the private sector.

Further, it is also proposed to amend the Income Tax Act so as to extend the tax holiday under sub-section(9) of section 80-IB of the Income Tax Act, which was hitherto available in respect of profits arising from the commercial production or refining of mineral oil, also to natural gas from blocks which are licensed under the VIII Round of bidding for award of exploration contracts (hereafter referred to as "NELP-VIII") under the New Exploration Licencing Policy announced by the Government of India vide Resolution No.O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begin commercial production of natural gas on or after the 1st day of April, 2009.

The term "undertaking" in sub-section (9) has not been defined. Therefore, in the context of mineral oil, the meaning of the term "undertaking" has been the subject matter of considerable dispute. The tax payers have been holding the view that every well in a block licensed constitutes a single "undertaking" and accordingly the tax holiday is available separetely for each such well. However, this view is against the legislative intent. Accordingly, it is proposed to amend sub-section (9) by inserting an Explanation so as to clarify that for the purposes of claiming deduction under sub-section (9), all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by Central or a State Government in any other manner, shall be treated as a single "undertaking". This amendment is proposed to take retrospective effect from the 1st April, 2000 and will, accordingly, apply in relation to assessment year 2000-2001 and subsequent years. This definition of "undertaking" will be applicable both in relation to mineral oil and natural gas. [Clause 37]

Rationalising the provisions of deduction under sub-section (10) of section 80-IB

Sub-section (10) of section 80-IB of the Income-tax Act, 1961 provides for 100 per cent deduction of the profits derived by an undertaking from developing and building housing projects. This benefit is available subject to the following conditions:—

(a) The project is approved by a local authority before the 31st day of March, 2007.

(b) The project is constructed on a plot of land having a minimum area of one acre.

(c) The built-up area of each residential unit should not exceed 1,000 sq.ft. in the cities of Delhi and Mumbai (including areas falling within 25 kms. of municipal limits of these cities) and 1,500 sq.ft. in other places.

(d) The built-up area of the shops and other commercial establishments included in the housing project should not exceed 5 per cent of the total built-up area of the housing project or 2,000 sq.ft. whichever is less.

(e) The project has to be completed within 4 years from the end of the financial year in which the project is approved by the local authority.

The objective of this tax concession is to provide tax benefit to the person undertaking the investment risk i.e. the actual developer. However, any person undertaking pure contract risk is not entitled to the tax benefits.

With a view to clarify accordingly, it is proposed to insert an Explanation after sub-section (10) of section 80-IB so as to provide that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any other person (including Central or State Government).

This amendment will take effect retrospectively from the 1st day of April, 2001 and shall accordingly, apply in relation to assessment year 2001-02 and subsequent assessment years.

Further, the objective of the tax benefit for housing projects is to build housing stock for low and middle income households. This has been ensured by limiting the size of the residential unit. However, this is being circumvented by the developer by entering into agreement to sell multiple adjacent units to a single buyer. Accordingly, it is proposed to insert new clauses in the said sub-section to provide that the undertaking which develops and builds the housing project shall not be allowed to allot more than one residential unit in the housing project to the same person, not being an individual, and where the person is an individual, no other residential unit in such housing project is allotted to any of the following person:-

(i) Spouse or minor children of such individual;

(ii) the Hindu undivided family in which such individual is the karta;

(iii) any person representing such individual, the spouse or minor children of such individual or the Hindu undivided family in which such individual is the karta.

This amendment will take effect from the 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 37]

Extension of sunset clause for units in free trade zone under section 10A and for export orientedundertakings under section 10B

Under the existing provisions, the deductions under section 10A and section 10B of the Income Tax Act are available only upto the assessment year 2010-11.

It is proposed to amend sections 10A and 10B to extend the tax benefit under both these sections by one year i.e., the deduction will be available upto assessment year 2011-12. [Clauses 5,7]

Amendment to section 10(23D) of the Income Tax Act, 1961- Incorporating "Other Public Sector Banks"under the expression "Public Sector Bank"

The expression "public sector banks" has been defined in the explanation to section 10(23D). Reserve Bank of India has categorized a new sub-group called "other public sector banks". The Central Government holds more than 51% shareholding in IDBI Bank Limited which has been categorized under "other public sector banks" by RBI.

Since "other public sector banks", has not been included in the expression "public sector banks" as defined in the Explanation to section 10(23D), it is proposed to amend the relevant provisions of the Income-tax Act, 1961 to do so.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-2011 and subsequent assessment years. [Clause 4]

Definition of the term "manufacture"

A number of tax concessions under the Income-tax Act are provided for encouraging manufacture of articles or things. However, the term "manufacture" has not been defined in the statute. Therefore, it has been the subject matter of dispute and resultant judicial review in a number of cases. In order to remove any kind of ambiguity which may still persist in this regard, it is proposed to insert a new clause (29BA) in section 2 so as to provide that 'manufacture', with all its grammatical variations, shall mean a change in a non-living physical object or article or thing,—

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new object or article or thing with a different chemical composition or integral structure.

This amendment will take retrospective effect from the 1st day of April, 2009 and will, accordingly, apply in relation to assessment year 2009-2010 and subsequent years. [Clause 3]

Clarification regarding computation of exempted profits in the case of units in Special Economic Zones (SEZs)

Under sub-section (7) of section 10AA of the Income-tax Act, the exempted profit of a SEZ unit is the profit derived from the export of articles or things or services and same is required to be calculated as under:

"the profit derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee."

Simply stated, it means that the exempted profit of the SEZ unit is equal to

Profits of the business of the unit ? export turnover of the unit

Total turnover of the business carried on by the assessee

This method of computation of the profits of business with reference to the total turnover of the assessee is perceived to be discriminatory in so far as those assessees are concerned who were having multiple units in both the SEZ and the domestic tariff area (DTA) vis-a-vis those assessees who were having units in only the SEZ. With a view to removing the anomaly, it is proposed to amend the provisions of sub-section (7) of section 10AA of the Income Tax Act so as to provide that the deduction under section 10AA shall be computed with reference to the total turnover of the undertaking.

This amendment will take effect from the 1st day of April, 2010 and will accordingly, apply to assessment year 2010-11 and subsequent assessment years. [Clause 6]

Clarificatory amendment in section 132

Sub-section (1) of section 132 of the Income-tax Act empowers income-tax authorities specified therein to authorise other income-tax authorities to conduct search and seizure operations. The authorities empowered to issue authorization are:

(i) Director General or Chief Commissioner;

(ii) Director or Commissioner; and

(iii) such Joint Director or Joint Commissioner as are empowered by the Board to do so.

The Joint Director or Joint Commissioner are, in terms of the provisions of clause (28C) and clause (28D) of section 2 of the Income-tax Act are understood to include Additional Director or Additional Commissioner. Based on this understanding in the Department, Additional Directors and Additional Commissioners have issued warrant of authorisation since the institution was created on 1st June, 1994. However, the Courts have held that Joint Directors or Joint Commissioners referred to in section 132 of the Income-tax Act does not include "Additional Director or Additional Commissioner" and, therefore, the warrants of authorisation issued by the latter is illegal. Accordingly, all search and seizure operation have been declared to be illegal.

Therefore, it is proposed to make clarificatory amendment to section 132 to provide explicitly that Additional Director or Additional Commissioner always had the power to issue warrant of authorisation under the said provisions.

This amendment will take effect retrospectively from 1st June, 1994.

Further, it is also proposed to clarify by amending the section 132 that Joint Commissioner or Joint Director always had the power to issue authorization.

This amendment will take effect retrospectively from 1st October, 1998.

Similarly, it is proposed to make consequential amendments in section 132A to include Additional Director or Additional Commissioner as an authorized Officer.

This amendment will take effect retrospectively from 1st June, 1994.

[Clauses 50,51]

Clarificatory amendment in respect of reassessment proceeding under section 147

The existing provisions of section 147 provides, inter alia, that if the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may assess or reassess such income after recording reasons for re-opening the assessment. Further, he may also assess or reassess such other income which has escaped assessment and which comes to his notice subsequently in the course of proceedings under this section.

Some Courts have held that the Assessing Officer has to restrict the reassessment proceedings only to issues in respect of which the reasons have been recorded for reopening the assessment. He is not empowered to touch upon any other issue for which no reasons have been recorded. The above interpretation is contrary to the legislative intent.

With a view to further clarifying the legislative intent, it is proposed to insert an explanation in section 147 to provide that the assessing officer may assess or reassess income in respect of any issue which comes to his notice subsequently in the course of proceedings under this section, notwithstanding that the reason for such issue has not been included in the reasons recorded under sub-section (2) of section 148.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to assessment year 1989-1990 and subsequent years. [Clause 57]

Special deduction under section 36(1)(viii) to National Housing Bank (NHB)

Clause (viiii) of sub-section (1) of Section 36 [section 36(1)(viii)] provides special deduction to financial corporations and banking companies of an amount not exceeding 20% of the profits subject to creation of a reserve.

National Housing Bank (NHB) is wholly owned by Reserve Bank of India and is engaged in promotion and regulation of housing finance institutions in the country. It provides re-financing support to housing finance institutions, banks, ARDBs, RRBs etc., for the develoment of housing in India. It also undertakes financing of slum projects, rural housing projects, housing projects for EWS and LIG categories etc. NHB is also a notified financial corporation under section 4A of the Companies Act.

A view has been expressed that NHB is not entited to the benefits of section 36(1)(viii) on the ground that it is not engaged in the long-term financing for consturction or purchase of houses in India for residential purpose. The proposed amendment seeks to provide that corporations engaged in providing long-term finance (including re-financing) for development of housing in India will be eligible for the benefit under section 36(1)(viii).

This amendment will take effect from the 1st April 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years.

[Clause 14]

Definition of written down value under section 43(6)

Clause (ii) of sub-section (1) of section 32 provides that depreciation is to be allowed and computed at the prescribed percentage on the written down value (WDV) of any block of assets. Sub-clause (b) of clause (6) of section 43 provides that WDV in the case of assets acquired before the previous year shall be computed by taking the actual cost to the assessee less all depreciation "actually allowed" to him under the Income-tax Act.

Rules 7A, 7B and 8 of the Income tax Rules, 1962, deal with the computation of composite income where income is derived in part from agricultural operations and in part from business chargeable to tax under the Income tax Act, 1961 under the head "Profits & Gains of Business". These rules prescribe the method of computation in the case of manufacture of rubber, coffee and tea. In such cases, the income which is brought to tax as "business income" is a prescribed fixed percentage of the composite income.

The Hon'ble Supreme Court in the case of CIT Vs. Doom Dooma India Ltd (222 CTR 105) has held that in view of the language employed in sub-clause (b) of clause (6) of section 43 regarding depreciation "actually allowed", where any income is partially agricultural and partially chargeable to tax under the Income tax Act, 1961 under the head "Profits & Gains of Business", the depreciation deducted in arriving at the taxable income alone can be taken into account for computing the WDV in the subsequent year.

For instance, Rule 8 prescribes the taxability of income from the manufacture of tea. Under the said rule, income derived from the sale of tea grown and manufactured by seller shall be computed as if it were income derived from business, and 40% of such income shall be deemed to be income liable to tax. As a result of the Court decision on depreciation to be "actually allowed" for computing WDV, the resultant computation of depreciation is as per the following illustration:

	Rs.
Sale proceeds of made tea -	1,000
Less : Expenses –	
Depreciation –(10% of Rs. 1,000)	(100)
Others expenses-	(300)
Composite income -	600
Income subject to charge under the I.T. Act, 1961 by application of Rule 8 (40% of 600) -	240
Income not chargeable to income-tax (60% of 600) -	360

According to the interpretation of the Court, the W.D.V. of the fixed asset for the immediately succeeding year is to be taken at Rs.960/- (Rs.1,000 minus Rs.40 being depreciation allocated for business income) and not Rs.900/- (Rs.1,000 minus depreciation of Rs.100/- allowed for determining composite income). Thus the depreciation for which deduction is allowed to the assessee while computing its agricultural income is to be ignored for computing the W.D.V. of the asset according to the Court ruling.

The above interpretation is not in accordance with the legislative intent. WDV is required to be computed by deducting the full depreciation attributable to composite income. Hence in the above illustration, the WDV of the fixed asset for the immediately succeeding year is to be taken at Rs.900/- and not 960/- as held by the Supreme court. The ambiguity in this case has arisen on account of the interpretation of the meaning of the phrase "actually allowed" in sub-clause (b) of clause (6) of section 43.

It is therefore proposed to provide that in the cases of 'composite income', notwithstanding that the assessee was not required to compute a part of his income for the purposes of Income-tax Act for any previous year, depreciation shall be computed as if the total composite income of the assessee is chargeable under the Income-tax Act and such depreciation shall be deemed to have been "actually allowed" to the assessee.

This amendment will take effect from the 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 17]

Extension of income-tax exemption to Special Undertaking of Unit Trust of India (SUUTI)

The Special Undertaking of Unit Trust of India (SUUTI) was created vide The Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002. SUUTI is the successor of UTI. The mandate of SUUTI is to liquidate government liabilities on account of the erstwhile UTI.

Vide section 13(1) of the said Repeal Act, SUUTI is exempt from income-tax or any other tax or any income, profits or gains derived, or any amount received in relation to the specified undertaking for a period of five years, computed from the appointed day, i.e. 1st day of February,2003. This exemption was to come to an end on 31st January, 2008 and the exemption was further extended up to the 31st March, 2009.

Since some of the schemes of SUUTI are still pending closure, it is proposed to amend section 13(1) so as to extend the exemption for a period of five years that is upto 31st March, 2014.

This amendment will take effect retrospectively from the 1st day of April, 2009. [Clause 113]

Fringe Benefit Tax

The Finance Act, 2005 introduced a new levy, namely, Fringe Benefit Tax (FBT) on the value of certain fringe benefits. The provisions relating to levy of this tax are contained in Chapter XII-H (sections 115W to 115WL) of the Income Tax Act, 1961.

It is proposed to insert a new section 115WM to abolish the fringe benefit tax. Consequently, it is also proposed to restore the taxation of the fringe benefits as perquisites in the hands of the employees. Therefore, it is also proposed to amend clause (2) of section 17,—

(a) by substituting sub-clause (vi) so as to provide that perquisite shall include the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee. For this purpose, the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares. The "fair market value" will mean the value determined in accordance with the method as may be prescribed by the Board.

(b) by inserting sub-clause (vii) to provide that perquisite shall also include the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees.

(c) by inserting sub-clause (viii) to provide that perquisite shall also include the value of any other fringe benefit or amenity as may be prescribed.

These amendments will take effect from 1st April, 2010 and will accordingly, apply to the assessment year 2010-11 and subsequent assessment years.

Consequently, it is also proposed to amend section 49 to provide that Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.

This amendment will take effect from the 1st April, 2010 and will accordingly apply to assessment year 2010-11 and subsequent assessment years. [Clauses 9,23,48]

Tax benefits for New Pension System

The New Pension System (NPS) has become operational since 1st January, 2004 and is mandatory for all new recruits to the Central Government service from 1st January, 2004. Since then it has been opened up for employees of State Government, private sector and self employed (both organised and unorganized). NPS Trust has been set-up on 27th February, 2008 as per the provisions of the Indian Trust Act, 1882 to manage the assets and funds under the NPS in the interest of the beneficiaries.

With a view to ensure that tax treatment of savings under this system is in synchronised with the "exempt-exempt-taxed" (EET) method and that there is no incidence of taxation at the accumulation stage, it is proposed to make the NPS Trust a complete pass-through in so far as taxation is concerned. Therefore, it is proposed to,—

(i) insert a new clause (44) in section 10 of the Income-tax Act so as to provide that any income received by any person on behalf of the New Pension System Trust established on 27th day of February, 2008 under the provisions of the Indian Trust Act of 1882 shall be exempt from income tax;

(ii) amend section 115-O to provide that any dividend paid to the NPS Trust shall be exempt from Dividend Distribution Tax;

(iii) amend Chapter VII of Finance (No.2) Act, 2004 to provide that all purchases and sales of equity and derivatives by the NPS Trust will also be exempt from the Securities Transaction Tax; and

(iv) amend section 197A to provide that the NPS Trust shall receive all income without any tax deducted at source.

The tax benefit under section 80CCD of the Income-tax Act, 1961 was hitherto available to "employees" only. However, the NPS now has been extended also to "self-employed". Therefore, it is proposed to amend sub-section (1) of section 80CCD so as to extend the tax benefit thereunder also to "self-employed" individuals.

It is also proposed to amend the Explanation to the said section to provide that for the purposes of the said section the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

These amendments will take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to assessment year 2009-2010 and subsequent years. [Clauses 4,30,46,62,114]

Taxation of certain transactions without consideration or for an inadequateconsideration as income from other sources

Sub clause (vi) of section 56 provide that any 'sum of money' (in excess of the prescribed limit of Rupees fifty thousand) received without consideration by an individual or HUF will be chargeable to income tax in the hands of the recipient under the head 'income from other sources'. However, receipts from relatives or on the occasion of marriage or under a will are outside the scope of the provisions of clause (vi) of sub-section (2) of section 56 of the Income-tax Act. Similarly, anything which is received in kind having 'money's worth' i.e. property is also outside the purview of the existing provisions.

It is, therefore proposed to amend section 56 of the Income-tax Act to provide that the value of any property received without consideration or for inadequte consideration will also be included in the computation of total income of the recipient. Such properties will include immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art.

In a case where an immovable property is received without consideration and the stamp duty value of such property exceeds fifty thousand rupees, the whole of the stamp duty value of such property shall be taxed as the income of the recipient. If an immovable property is received for a consideration which is less than the stamp duty value of the property and the difference between the two exceeds fifty thousand rupees (inadequate consideration), the difference between the stamp duty value of such property and such consideration shall be taxed as the income of the recipient.

If the stamp duty value of immovable property is disputed by the assessee, the Assessing Officer may refer the valuation of such property to a Valuation Officer. In such cases, the provisions of existing section 50C and sub-section (15) of section 155 of the Income Tax Act shall, as far as may be, apply for determining the value of such property.

In a case where movable property is received without consideration and the aggregate fair market value of such property exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property shall be taxed as the income of the recipient. If a movable property is received for a consideration which is less than the aggregate fair market value of the property and the difference between the two exceeds fifty thousand rupees, the difference between the fair market value of such property and such consideration shall be taxed as the income of the recipient.

It is also proposed to provide that,—

(i) the value of moveable property shall be the fair market value as on the date of receipt in accordance with the method prescribed; and

(ii) in the case of immovable property, the value of the property shall be the 'stamp duty value' of the property.

This amendment will take effect from 1st October, 2009 and will accordingly apply for transactions undertaken on or after such date. [Clause 26]

Minimum Alternate Tax

The Income-tax Act is riddled with a plethora of tax incentives which has the effect of considerable eroding the tax base. Since tax incentives are generally sticky in nature, their distortionary impact can be reduced / eliminated only by imposing a cap thereon. The Minimum Alternate Tax (MAT) is designed to achieve this objective.

Under the existing provisions of section 115JB of the Income Tax Act, a company is required to pay a minimum tax on its book profits, if the income-tax payable on the total income, as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2007, is less than such minimum. The rate of the minimum tax is ten per cent of the book profit. It is proposed to amend sub-section (1) of section 115JB to increase the MAT rate to fifteen per cent. from the existing level of ten per cent.

However, with a view to provide relief to the assessees, being companies, who pay Minimum Alternate Tax under section 115JB for any assessment year beginning on or after the 1st day of April, 2006, it is also proposed to amend the provisions of sub-section (3A) of section 115JAA so as to provide that the amount of tax credit determined under sub-section (2A) of section 115JAA shall be allowed to be carried forward and set off upto the tenth assessment year immediately succeeding the assessment year in which the tax credit becomes allowable under sub-section (1A) of the said section.

These amendments will take effect from 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clauses 44,45]

Clarification regarding add back of 'provision for diminution in the value of asset', while computing book profits

Section 115JB of the Income-tax Act provides for levy of minimum alternate tax (MAT) on the basis of book profits of a company. As per Explanation 1 after sub-section (2), the expression "book profit" means net profit as shown in the profit and loss account prepared in accordance with the provisions of Part-II and Part-III of Schedule-VI to the Companies Act, 1956 as increased or reduced by certain adjustments, as specified in that section.

It is proposed to insert a new clause (i) in Explanation 1 after sub-section (2) of the said section so as to provide that if any provision for diminution in the value of any asset has been debited to the profit and loss account, it shall be added to the net profit as shown in the profit and loss account for the purpose of computation of book profit.

Similar amendment is also proposed in section 115JA of the Income-tax Act by way insertion of a new clause (g) in the Explanation after sub-section (2) of the said section.

The amendment to section 115JA is proposed to be made effective retrospectively from 1st day of April, 1998 and will, accordingly, apply in relation to assessment year 1998-99 and subsequent years.

The amendment to section 115JB is proposed to be made effective retrospectively from 1st day of April, 2001 and will, accordingly, apply in relation to assessment year 2001-02 and subsequent assessment years. [Clauses 43,45]

Taxation of investment income/loss of Non life insurance business

The profits and gains of non-life insurance business is computed under section 44 read with Rule 5 of the First Schedule. As per Rule 5, profits and gains of non-life insurance business is taken to be profits disclosed in the annual account, copies of which are required under the Insurance Act, 1938 (4 of 1938), to be furnished to the Controller of Insurance, subject to adjustments for unexpired risk and disallowances under section 30 to Section 43B.

The Insurance Act, 1938 was amended in 1999 and the Insurance Regulatory Development Authority (IRDA) was created. In the financial year 2001-02, IRDA introduced "IRDA (Preparation of Financial Statements and Auditor's Report of Insurance Companies) Regulations, 2002". The regulations mandated new guidelines and formats for preparation of accounts by General Insurers. According to these changed norms, a non-life insurance company has to include profit or loss on realization/sale of investment in the profit and loss account or revenue account. This is also consistent with international best practice on taxation of investment income of non-life insurance companies.

In view of the above, it is proposed to amend the provisions of the Income-tax Act to provide that any increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realisation of investments in accordance with the regulations prescribed by IRDA shall be treated as income and included in the computation of the total income. Similarly, deduction shall be allowed in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realisation of investments in accordance with the regulations prescribed by IRDA.

This amendment will be effective from the 1st day of April, 2011 and will accordingly apply in relation to assessment year 2011-12 and subsequent years. [Clause 79]

Provisions for deemed valuation in certain cases of Transfer

The existing provisions of section 50C provide that where the consideration received or accruing as a result of the transfer of a capital asset, being land or building or both, is less than the value adopted or assessed by an authority of a State Government (stamp valuation authority) for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed shall be deemed to be the full value of the consideration received or accruing as a result of such transfer for computing capital gain. However, the present scope of the provisions does not include transactions which are not registered with stamp duty valuation authority, and executed through agreement to sell or power of attorney.

With a view to preventing the leakage of revenue, it is proposed to amend the section 50C so as to provide that where the consideration received or accruing as a result of transfer of a capital asset, being land or building or both is less than the value adopted or assessed or assessable by an authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration received or accruing as a result of such transfer for computing capital gain.

Further, it is proposed to insert a new explanation so as to clarify the meaning of the term 'assessable'.

This amendment will take effect from 1st October, 2009 and shall accordingly apply in relation to transactions undertaken on or after such date. [Clause 25]

Compensation received on voluntary retirement or termination of service undera scheme of voluntary separation

Very often, a person receives arrears or advance of salary due to him. Since arrears and advance salary is liable to tax, the total income (including such arrears and advance) is assessed at a rate higher than that at which it would otherwise have been assessed if the total income did not include arrears and advance of salary. In other words, arrears and advance salary result in bracket creeping and higher tax burden. With the view to mitigating this excess burden, the provisions of section 89 of the Income-tax Act provide for backward spread of the arrears and forward spread of the advance.

Under the voluntary retirement scheme, the retiree employee receives lump-sum amount in respect of his balance period of service. Such amount are in the nature of advance salary. Clause (10C) of section 10 provides for an exemption of Rs. 5 lakhs in respect of such amount. This exemption is provided to mitigate the hardship on account of bracket creeping as a result of the receipt of the amount in lump-sum upon voluntary retirement. However, some tax payers have claimed both the benefit under clause (10C) of section 10 and section 89. The courts have also upheld their claims.

With the view to preventing the claim of double benefit, it is proposed to insert a proviso to section 89 to provide that no relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in case of a public sector company referred to in sub-clause (i) of clause (10C) of section 10, a scheme of voluntary separation, if an exemption in respect of such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (10C) of section 10 in respect of such, or any other, assessment year.

Correspondingly, it is also proposed to insert a third proviso to clause (10C) of section 10 to provide that where any relief has been allowed to any assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary seperation, no exemption under cluase (10C) of section 10 shall be allowed to him in relation to such, or any other, assessment year.

These amendments will take effect from 1st day of April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clauses 4,38]

Rationalisation of provisions relating to penalty for concealment of income

Under the existing provisions of Explanation 5A to sub-section (1) of section 271, it has been provided that where, in the course of search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be owner of – (i) any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or (ii) any income based on any entry in any books of account or other documents or transactions and claims that such assets or entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year; which has ended before the date of the search and the due date for filing the return of income for year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

In order to clarify that the scope of Explanation 5A also extends to cases where the assessee has filed the return of income for any previous year and the income found during the course of search relates to such previous year and is not disclosed in the said return, then such income shall be deemed to be concealed income and assessee shall be liable to pay penalty under section 271. Therefore, it is proposed to substitute the Explanation 5A to sub-section (1) of section 271 so as to provide that where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of –

(i) any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or

(ii) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year, which has ended before the date of search and,—

(a) where the return of income for such previous year has been furnished before the said date but such income has not been declared therein; or

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

This amendment will take effect retrospectively from 1st day of June, 2007 and apply in cases where search under section 132 is initiated on or after 1st June, 2007. [Clause 73]

Introduction of Document Identification Number and facility for electronic communication

It is now well accepted that "tax administration is tax policy". A tax administration designed to foster voluntarily compliance yields higher revenue than a sound tax policy administered by an inefficient tax administration. Therefore, it has always been the endeavour of the Income-tax Department to improve the standards of its service and transparency in its functioning. Therefore, it is proposed to introduce a computer based system of allotment and quoting of Document Identification Number (DIN) in each correspondence sent or received by it so as to enable tracking of documents and minimize taxpayers grievances.

With a view to give effect to the aforesaid, it is proposed to insert a new section 282B so as to provide that every income tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

It is further proposed that where the notice, order, letter or any correspondence issued by any income-tax authority does not bear a Document Identification Number, such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued.

It is also proposed to provide that every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number. It is also proposed to provide that where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear Document Identification Number, such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received.

This amendment will take effect from 1st October, 2010.

Under the existing provisions of section 282 a notice or requisition under the Act may be served on the person therein named either by post or as if it were a summons issued by a court.

It is proposed to amend the said provisions to provide that the service of notice or summon or requisition or order or any other communication may be made by delivering or transmitting a copy thereof by post or courier service or in such manner as provided in the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or by any other means of transmissions as may be provided by rules made by the Board in this behalf.

It is also proposed that the Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which such communication may be delivered.

This amendment will take effect from 1st October, 2009. [Clauses 76,77]

Rationalisation of provisions relating to provisional attachment of asset

The provisions of section 281B empower the Assessing Officer to make provisional attachment of the assets of the assessee during the pendency of any proceedings for assessment or reassessment. The sub-section (2) further provides that every attachment order shall cease to have effect after the expiry of a period of six months from the date of order made under sub-section (1). However, the period of validity of provisional attachment order can be further extended by two years. The second proviso to sub-section (2) further provides that where an application for settlement under section 245C is made, 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 made shall be excluded from the period specified in this sub-section.

In many cases, the assessees have filed writ petitions in High Courts and Supreme Court and have obtained stay of the assessment proceedings. Often, such stay remains in force for many years during which the validity of provisional attachment order expires. Therefore, it is proposed to amend sub-section (2) of section 281B to provide that the period, during which the proceedings for assessment or reassessment are stayed by any Court, shall be excluded in calculating the period specified therein.

This amendment will take effect retrospectively from 1st April, 1988 and will accordingly apply in relation to assessment year 1988-89 and subsequent assessment years. [Clause 75]

Rationalization of provisions for taxation of interest received on delayed compensation or enhanced compensation

The existing provisions of Income-tax Act provide that income chargeable under the head "Profits and gains of business or profession" or "Income from other sources", shall be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee. Further, the Hon'ble Supreme Court, in the case of Rama Bai Vs. CIT (181 ITR 400) has held that arrears of interest computed on delayed or enhanced compensation shall be taxable on accrual basis. This has caused undue hardship to tax payers.

With a view to mitigating the hardship, it is proposed to amend section 145A to provide that the interest received by an assessee on compensation or enhanced compensation shall be deemed to be his income for the year in which it is received, irrespective of the method of accounting followed by the assessee.

Further, it is proposed to insert clause (viii) in sub-section (2) of section 56 to provide that income by way of interest received on compensation or on enhanced compensation referred to in sub-section (2) of section 145A shall be assessed as "income from other sources" in the year in which it is received.

This amendment will take effect from 1st April, 2010 and shall accordingly apply in relation to assessment year 1998-99 and subsequent assessment years. [Clauses 26,27,56]

Empowering Central Government to enter into agreement with specifiednon-sovereign territories

Section 90 of the Income-tax Act empowers the Central Government to enter into Double Taxation Avoidance Agreement ('DTAA') with the Government of any other country outside India for granting double-taxation relief and facilitate exchange of information concerning avoidance or evasion of tax. The government now wishes to expand the scope of this cooperation by entering into a DTAA or TIEA (Tax Information Exchange Agreement) with non-sovereign jurisdictions.

In order to enable the government to enter into agreements with non-sovereign territories, it is proposed to make suitable amendments to section 90 of the Income Tax Act, 1961 and to the corresponding provisions under section 44A of the Wealth Tax Act so as to enable the government to notify such specified territories outside India.

The proposed amendment will be effective from 1st October, 2009. [Clauses 39,83]

Determination of arm's length price in cases of international transactions

Section 92C of the Income-tax Act provides for adjustment in the transfer price of an international transaction with an associated enterprise if the transfer price is not equal to the arm's length price. As a result, a large number of such transactions are being subjected to adjustment giving rise to considerable dispute. Therefore, it is proposed to empower the Board to formulate safe harbour rules i.e. to provide the circumstances in which the Income-tax authorities shall accept the transfer price declared by the assessee.

This amendment will take effect from 1st April, 2009.

Further, the proviso to sub-section (2) of section 92C provides that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices, or, at the option of the assessee, a price which may vary from the arithmetical mean by an amount not exceeding five per cent of such arithmetical mean.

The above provision has been subject to conflicting interpretation by the assessee and the Income Tax Department. The assessee's view is that the arithmetical mean should be adjusted by 5 per cent to arrive at the arm's length price. However, the department's contention is that if the variation between the transfer price and the arithmetical mean is more than 5 per cent of the arithmetical mean, no allowance in the arithmetical mean is required to be made.

With a view to resolving this controversy, it is proposed to amend the proviso to section 92C to provide that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such price. However, if the arithmetical mean, so determined, is within five per cent of the transfer price, then the transfer price shall be treated as the arm's length price and no adjustment is required to be made.

This amendment will take effect from 1st October, 2009 and shall accordingly apply in relation to all cases in which proceedings are pending before the Transfer Pricing Officer (TPO) on or after such date. [Clauses 40,41]

Provision for constitution of alternate dispute resolution mechanism

The dispute resolution mechanism presently in place is time consuming and finality in high demand cases is attained only after a long drawn litigation till Supreme Court. Flow of foreign investment is extremely sensitive to prolonged uncertainity in tax related matter. Therefore, it is proposed to amend the Income-tax Act to provide for an alternate dispute resolution mechanism which will facilitate expeditious resolution of disputes in a fast track basis.

The salient features of the proposed alternate dispute resolution mechanism are as under:—

(1) The Assessing Officer shall, forward a draft of the proposed order of assessment (hereinafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,-

(a) File his acceptance of the variations to the Assessing Officer; or

(b) File his objections, if any, to such variation with,—

(i) The Dispute Resolution Panel; and

(ii) The Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if —

(a) The assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) No objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in section 153, pass the assessment order under sub-section (3) within one month from the end of the month in which,—

(a) The acceptance is received; or

(b) The period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objections are received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:—

(a) Draft order;

(b) Objections filed by the assessee;

(c) Evidence furnished by the assessee;

(d) Report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(e) Records relating to the draft order;

(f) Evidence collected by, or caused to be collected by, it; and

(g) Result of any enquiry made by, or caused to be made by it.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5), -

(a) Make such further enquiry, as it thinks fit; or

(b) Cause any further enquiry to be made by any income tax authority and report the result of the same to it.

(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which the direction is received.

(14) The Board may make rules for the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed, under sub-section(2), by the eligible assessee.

(15) For the purposes of this section,—

(a) "Dispute Resolution Panel" means a collegium comprising of three commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,-

(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and

(ii) any foreign company.

Further, it is proposed to make consequential amendments—

(i) in sub-section (1) of section 131 so as to provide that "Dispute Resolution Panel" shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908);

(ii) in clause (a) of sub-section (1) of section 246 so as to exclude the order of assessment passed under sub-section (3) of section 143 in pursuance of directions of "Dispute Resolution Panel" as an appealable order and in clause (c) of sub-section (1) of section 246 so as to exclude an order passed under section 154 of such order as an appealable order;

(iii) in sub-section (1) of section 253 so as to include an order of assessment passed under sub-section (3) of section 143 in pursuance of directions of "Dispute Resolution Panel" as an appealable order.

These amendments will take effect from 1st October, 2009. [Clauses 49,55,71,72]

Special provision for computing profits and gains of business on presumptive basis

The existing provisions of the Income-tax Act, provide for taxation of income on presumptive basis in the case of construction business, income from goods carriages and business of retail trade.

Section 44AD prescribes a method of presumptive taxation for assessees engaged in the business of civil construction or supply of labour for civil construction in which a sum equal to eight percent of the gross receipts is deemed to be the profits and gains from business. Section 44AE provides presumptive provisions for the assessees engaged in the business of plying, hiring or leasing upto ten goods carriages in which a prescribed sum per vehicle is deemed to be the presumptive income of the assessee. Section 44AF prescribes a method of presumptive taxation for retail trade, under which the presumptive income is computed at the rate of a sum equal to five per cent of the total turnover.

There has been a substantial increase in small businesses with the growth of transport and communication and general growth of the economy. A large number of businesses and service providers in rural and urban areas who earn substantial income are outside the tax-net. Introduction of presumptive tax provisions in respect of small businesses would help a number of small businesses to comply with the taxation provisions without consuming their time and resources. A presumptive income scheme for small taxpayers lowers the compliance cost for such taxpayers and also reduces the administrative burden on the tax machinery.

In view of the above, it is proposed to expand the scope of presumptive taxation to all businesses by substituting a new section 44AD. The salient features of the proposed presumptive taxation scheme are as under:

(a) The scheme shall be applicable to individuals, HUFs and partnership firms excluding Limited liability partnership firms. It shall also not be applicable to an assessee who is availing deductions under sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" in the relevant assessment year.

(b) The scheme is applicable for any business (excluding a business already covered under Sec. 44AE) which has a maximum gross turnover /gross receipts of 40 lakhs.

(c) The presumptive rate of income is prescribed at 8% of gross turnover /gross receipts.

(d) An assessee opting for the above scheme shall be exempted from payment of advance tax related to such business under the current provisions of the Income-tax Act.

(e) An assessee opting for the above scheme shall be exempted from maintenance of books of accounts related to such business as required under section 44AA of the Income-tax Act.

(g) An assessee with turnover below Rs 40 lakhs, who shows an income below the presumptive rate prescribed under these provisions, will, in case his total income exceeds the taxable limit, be required to maintain books of accounts and also get them audited.

(h) The existing section 44AF is proposed to be made inoperative for the assessment year beginning on or after 1st day of April, 2011.

The proposed amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years. [Clauses 18,19,20,21,22]

Presumptive income for truck owners under section 44AE

Under the existing provisions of section 44AE, a presumptive scheme is available to assessees engaged in business of plying, hiring or leasing goods carriages. The scheme applies to an assessee, who owns not more than 10 goods carriages at any time during the previous year.

Under this scheme, which is optional to the assessee, a fixed amount of income per vehicle is taken at the rate of Rs.3,500/- per month per vehicle for owners of heavy goods vehicle, and Rs.3,150/- per month per vehicle for the owners of light goods vehicles. An assessee opting for this scheme is exempted from maintaining books of account to substantiate the income.

It is proposed to enhance the presumed income per vehicle for the owners of–

(i) heavy goods vehicle to Rs.5,000/- per month; and

(ii) other than heavy goods vehicles to Rs.4,500/- per month.

It is further proposed to provide an anti-avoidance clause stating that a prescribed fixed sum or a sum higher than the aforesaid sum claimed to have been earned by the assessee shall be deemed to be profits and gains of such business.

The proposed amendment will take effect from the 1st April, 2011 and will, accordingly, apply in relation to assessment year 2011-12 and subsequent years. [Clause 21]

Taxation of Limited Liability Partnership (LLP)

The Limited Liability Partnership Act, 2008 has come into effect in 2009. LLP Rules (except some rules dealing with conversion) and forms have been notified w.e.f. 1st of April, 2009.

It is proposed to incorporate the taxation scheme of LLPs in the Income Tax Act on the same lines as the taxation scheme currently prevalent for general partnerships, i.e. taxation in the hands of the entity and exemption from tax in the hands of its partners. A "limited liability partnership" and a general partnership will be accorded the same tax treatment.

It is also proposed that the word 'partner' shall include within its meaning a partner of a limited liability partnership, the word 'firm' shall include within its meaning a limited liability partnership and the word 'partnership' shall include within its meaning a limited liability partnership as these terms have been defined in the Limited Liability Partnership Act, 2008.

The LLP Act provides for nomination of "designated partners" who have been given greater responsibility. It is proposed that the designated partner shall sign the income tax return of an LLP, or, where, for any unavoidable reason such designated partner is not able to sign the return or where there is no designated partner as such, any partner shall sign the return.

It is proposed to provide that in case of liquidation of an LLP, every partner will be jointly and severally liable for payment of tax unless he proves that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part.

As an LLP and a general partnership is being treated as equivalent (except for recovery purposes) in the Act, the conversion from a general parternship firm to an LLP will have no tax implications if the rights and obligations of the partners remain the same after conversion and if there is no transfer of any asset or liability after conversion.If there is a violation of these conditions, the provisions of section 45 shall apply.

It is further proposed to make the amendments effective from the 1st day of April 2010 i.e. assessment year 2010-11. [Clause 3,53,58]

Rationalisation of provisions relating to tax deduction at source (TDS)

Tax deduction at source is a method of collecting taxes on behalf of the Government at the time of payment or credit. The Income-tax Act casts a legal responsibility on the deductor to deduct tax on the correct amount, at the correct rate and deposit it to the Government account. The TDS rates are specified partly in the Finance Act and partly in the provisions of the Income-tax Act. Deductors are also required to compute surcharge and cess over and above some of the prescribed rates of TDS. If the deductor fails to deduct the tax or fails to deposit the tax after deduction, interest, penalty and prosecution provisions may get attracted. Further, under the provisions of sub-clause (ia) of clause (a) of section 40, if the deductor fails to deduct tax on a prescribed payment or fails to deposit the tax deducted in time, the entire expenditure is disallowed while computing his total income. To assist deductors in complying with their TDS obligations and reduce their compliance burden, it is proposed to rationalise the provisions of TDS as under:

a. Rationalisation of TDS rates:

A. Under the existing provisions of section 194-I of the Income-tax Act, TDS on rental payments is prescribed at the rate of–

(a) 10% for the use of any machinery or plant or equipment,

(b) 15% for the use of any land or building or furniture or fittings, if the payee is an individual or HUF and

(c) 20% if the payee is other than an individual or HUF.

The current rates need a downward revision as they are leading to blocking of working capital funds in many cases. It is therefore proposed to rationalise and reduce the TDS rates on rental payments as under:

(a) 2% for the use of any machinery or plant or equipment,

(b) 10% for the use of any land or building or furniture or fittings for all persons.

Nature of Payment (194-I)	Existing rate	Proposed rate* (w.e.f. 1-10-2009)
Rent —		
a. rent of plant, machinery or equipment	10%	2%
b. rent of land, building or furniture to an individual and Hindu undivided family	15%	10%
c. rent of land, building or furniture to a per son other than an individual or Hindu undivided family	20%	10%

* The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1.04.2010.

B. Under the existing provisions of section 194C of the Income-tax Act, TDS at the rate of 2% is deducted on payment for a contract. However, in the case of a sub-contract, TDS is deducted at the rate of 1%. Further, in the case of payment for an advertising contract, TDS is required to be deducted at the rate of 1%.

In order to reduce the scope for disputes regarding classificaton of contract as sub contract, it is proposed to specify the same rate of TDS for payments to both contractors as well as sub-contractors. To rationalise the TDS rates and to remove multiple classifications it is also proposed to provide same rate of TDS in the case of payment for advertising contracts. To avoid hardship to small contractors/sub-contractors most of whom are organized as individuals/HUFs, it is proposed to prescribe following rates of TDS:

(a) 1% where payment for a contract are to individuals/HUF

(b) 2% where payment for a contract are to any other entity.

Nature of Payment (194C)	Existing rate	Proposed rate** (w.e.f. 1-10-2009)
Payment to —		
a. Individual/HUF contractor	2%	1%
b. Other than individual/HUF contractor	2%	2%
c. Individual/HUF sub-contractor	1%	1%
d. Other than individual/HUF sub-contractor	1%	2%
e. Individual/HUF contractor/sub-contractor for advertising	1%	1%
f. Other than individual/HUF contractor/ sub-contractor for advertising	1%	2%
g. Sub-contractor in transport business	1%	nil*
h. Contractor in transport business	2%	nil*

* The nil rate will be applicable if the transporter quotes his PAN. If PAN is not quoted the rate will be 1% for an individual/HUF transporter and 2% for other transporters upto 31.3.2010.

** The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1.04.2010.

C. Further some of the rates of TDS specified for resident taxpayers have been reduced and converged to 10 per cent.

D. In order to ease the computation of TDS, it is proposed to remove surcharge and cess on tax deducted on non-salary payments made to resident taxpayers.

b. Provisions for payments and tax deducted at source to transporters:

Under Section 194C, tax is required to be deducted on payments to transport contractors engaged in the business of plying, hiring or leasing goods carriages. However if they furnish a statement that they do not own more than two goods carriages, tax is not to be deducted at source. Transport operators report problem in obtaining TDS certificates as these are not issued imediately by clients and they are not able to approach the client again as they may have to move across the country for their business. It is, therefore, proposed to exempt payments to transport operators (as defined in section 44AE) from the purview of TDS. However, this would only apply in cases where the operator furnishes his Permanent Account Number (PAN) to the deductor. Deductors who make payments to transporters without deducting TDS (as they have quoted PAN) will be required to intimate these PAN details to the Income Tax Department in the prescribed format.

Further under the existing provisions of sections 40A(3) the Income-tax Act, if an assessee incurs any expenditure in respect of which payment in excess of Rs 20,000 is made otherwise than by an account payee cheque or account payee bank draft, such expenditure is not allowed as a deduction. As a large number of small truck owners/drivers have little working capital and do not have bank accounts outside their home cities, they insist on payment in cash for undertaking long haul journeys, as they need cash for incurring en-route expenses on diesel, food and repairs etc and such expenses generally exceed Rs 20,000/-. This causes operational problems to those who have to pay for their services.

To address this problem, it is proposed to raise the limit of cash payment to such transport operators to Rs 35,000/- from the existing limit of Rs 20,000/-.

These amendments will take effect from the 1st day of October, 2009 and will accordingly apply to transaction on or after such date.

c. Clarification regarding "work" under section 194C.

There is ongoing litigation as to whether TDS is deductible under section 194C on outsourcing contracts and whether outsourcing constitutes work or not. To bring clarity on this issue, it is proposed to provide that "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person other than such customer as such a contract is a contract for 'sale'. This will however not apply to a contract which does not entail manufacture or supply of an article or thing (e.g. a construction contract). It is also proposed to include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, within the definition of 'work'. It is further proposed to provide that in such a case TDS shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, TDS shall be deducted on the whole of the invoice value.

It is further proposed to make the amendments effective from the 1st day of October, 2009. Accordingly, the proposed amendments will apply to credits or payment effected on or after 1st October, 2009.

d. Improving compliance with provisions of quoting PAN through the TDS regime

Statutory provisions mandating quoting of Permanent Account Number (PAN) of deductees in Tax Deduction at Source (TDS) statements exist since 2001 duly backed by penal provisions. The process of allotment of PAN has been streamlined so that over 75 lakh PANs are being allotted every year. Publicity campaigns for quoting of PAN are being run since the last three years. The average time of allotment of PAN has come down to 10 calendar days. Therefore, non-availability of PAN has ceased to be an impediment. In a number of cases, the non-quoting of PANs by deductees is creating problems in the processing of returns of income and in granting credit for tax at deducted at source, leading to delays in issue of refunds.

In order to strengthen the PAN mechanism, it is proposed to make amendments in the Income Tax Act to provide that any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates

(i) the rate prescribed in the Act;

(ii) at the rate in force i.e., the rate mentioned in the Finance Act; or

(iii) at the rate of 20 per cent.

TDS would be deductible at the above-mentioned rates will also apply in cases where the taxpayer files a declaration in form 15G or 15H (under section 197A) but does not provide his PAN. Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant. These provisions will also apply to non-residents where TDS is deductible on payments or credits made to them. To ensure that the deductor knows about the correct PAN of the deductee it is also proposed to provide for mandatory quoting of PAN of the deductee by both the deductor and the deductee in all correspondence, bills and vouchers exchanged between them.

This amendment will take effect from 1st April, 2010. [Clauses 16,60,61]

e. Processing of statements of tax deducted at source

Currently almost all statements of tax deducted at source are filed in an electronic mode. The processing of these statements should, therefore, be done only in a computerized environment. It is therefore proposed to provide for processing of statements of tax deducted at source on computer so that liabilities on account of interest and other defaults in TDS payment are promptly calculated and intimated to the deductor. In order to process TDS statements on computer, it is proposed to provide for electronic processing on the same lines as processing of Income-tax returns.

It is proposed that the following adjustments can be made during the computerized processing of statements of tax deducted at source:

(i) any arithmetical error in the statement; or

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the statement, for example, in respect of rate of deduction of tax at source where such rate is not in accordance with the provisions of the Act.

It is proposed to provide that after making adjustments, tax and interest [e.g. u/s 201 (1A)] would be calculated and sum payable by the deductor or refund due to the deductor will be determined. An intimation will be sent to the deductor informing him of his tax liability or granting him the refund due within one

PHOTO SANJAY K SHARMA

PORTS: In deep waters. India needs to look beyond the 12 major ports and develop the 187 other notified ones to take full advantage of her 7,517-km long coastline, forming one of the biggest peninsulas in the world.

year from the end of the financial year in which the statement is filed. It is also proposed that the processing of these statements can be undertaken in a centralized processing centre.

This amendment will take effect from 1st April, 2010 [Clauses 64,65]

f. Providing time limits for passing of orders u/s 201(1) holding a person to be an assessee in default

Currently, the Income Tax Act does not provide for any limitation of time for passing an order u/s 201(1) holding a person to be an assessee in default. In the absence of such a time limit, disputes arise when these proceedings are taken up or completed after substantial time has elapsed.

In order to bring certainty on this issue, it is proposed to provide for express time limits in the Act within which specified order u/s 201(1) will be passed.

It is proposed that an order u/s 201(1) for failure to deduct the whole or any part of the tax as required under this Act, if the deductee is a resident taxpayer shall be passed within two years from the end of the financial year in which the statement of tax deduction at source is filed by the deductor. Where no such statement is filed, such order can be passed up till four years from the end of the financial year in which the payment is made or credit is given. To provide sufficient time for pending cases, it is proposed to provide that such proceedings for a financial year beginning from 1st April, 2007 and earlier years can be completed by the 31st March, 2011.

However, no time-limits have been prescribed for order under sub-section(1) of section 201 where—

(a) the deductor has deducted but not deposited the tax deducted at source, as this would be a case of defalcation of government dues,

(b) the employer has failed to pay the tax wholly or partly, under sub-section (1A) of section 192, as the employee would not have paid tax on such perquisites,

(c) the deductee is a non-resident as it may not be administratively possible to recover the tax from the non-resident.

It is proposed to make these amendments effective from 1st April, 2010. Accordingly it will apply to such orders passed on or after the 1st April, 2010. [Clause 65]

g. Filing of TDS and TCS statements

Sub-section (3) of section 200 of Income-tax Act provides that any person deducting tax in accordance with the provisions of Chapter XVIIB has to furnish, within the prescribed time, quarterly statements for the period ending on the 30th June, 30th September, 31st December and 31st March in each financial year. Similarly, filing of quarterly returns for tax collection at source (TCS) have been provided in sub-section (3) of section 206C of the Act. Further section 206A provides furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

In order to provide administrative flexibility in deciding the periodicity of such TDS related statements, it is proposed to modify the existing provisions so as to allow the Government to prescribe periodicity of such TDS statements besides prescribing their form and manner.

These provision will be applicable from 1st October, 2009.

[Clauses 52,63,66,67,68,69,74]

Commodities Transaction Tax

The provisions for levy of Commodities Transaction Tax were introduced by Chapter VII of Finance Act, 2008. However the levy has not yet been operationalised. In view of the recommendations of the Prime Minister's Economic Advisory Council, It is proposed to insert a new section 121A in Chapter VII of Finance Act, 2008 to provide that the Chapter relating to levy of Commodities Transanction Tax shall not apply on or after 1st April, 2009.

It is also proposed to make a consequential amendment in clause (xvi) in sub-section (1) of section 36 of the Income-tax Act by omitting the said clause.

These amendments will take effect from 1st April, 2009. [Clause 115]

Aligning the definition of "block of asset"

The term "block of assets" has been defined in clause (11) of section 2 and in Explanation 3 to sub-section (1) of section 32 of the Income-tax Act. However, these definition are not identical and therefore they are subject to misuse. Accordingly, it is proposed to amend Explanation 3 of sub-section (1) of Section 32 of the Income-tax Act so as to delete the definition of "block of assets" provided therein. Consequently, "block of assets" will derive its meaning only from clause (11) of section 2.

It is proposed to make the amendments effective from the 1st day of April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 11]

Centralized Processing of Returns

The Income-tax department is in the process of setting up a Centralised Processing Centre (CPC) at Bengaluru for centralised processing of Income-tax and Fringe benefits tax returns. For this purpose the Board had been empowered to relax, modify or adapt any provision of law relating to processing of returns subject to the condition that the notification for such relaxation, modification or adaptation is issued on or before the 31st March, 2009 and the said notification is laid on the table of the House. Since the centre has still not been operationalised, it is necessary to allow the Board a further period of one year i.e. up to 31st March, 2010 to relax, modify or adapt any provision of law relating to processing of returns.

These amendments will take effect from 1st April, 2009. [Clauses 47,54]

CUSTOMS

Note: (a) "Customs Duty" means the customs duty levied under section 3 of the Customs Act, 1962.

(b) "CVD" means the Additional duty of Customs levied under section 3 (1) of the Customs Tariff Act, 1975.

(c) "Special CVD" means the Additional duty of Customs levied under section 3 (5) of the Customs Tariff Act, 1975.

Changes come into effect immediately unless otherwise specified.

Major proposals about customs duties are the following:

A. HEALTH CARE

1) Customs duty on 10 specified life saving drugs/vaccine and their bulk drugs has been reduced from 10% to 5% with Nil CVD (by way of excise duty exemption).

2) Customs duty on specified heart devices, namely artificial heart and PDA/ASD occlusion device, has been reduced from 7.5% to 5% with Nil CVD (by way of excise duty exemption).

B. ELECTRONICS HARDWARE

1) Customs duty on LCD Panels for manufacture of LCD televisions has been reduced from 10% to 5%.

2) Customs duty exemption on Set Top Box for television broadcasting has been withdrawn and 5% customs duty imposed.

3) Full exemption from 4% special CVD on parts for manufacture of mobile phones and accessories has been reintroduced for one year, upto 06.07.2010.

C. RENEWABLE ENERGY SECTOR

1) Customs duty on permanent magnets for PM synchronous generator above 500 KW used in wind operated electricity generators has been reduced from 7.5% to 5%.

2) Customs duty on bio-diesel has been reduced from 7.5% to 2.5%.

D. CAPITAL GOODS

1) Concessional customs duty of 5% on specified machinery for tea, coffee and rubber plantations has been reintroduced for one year, upto 06.07.2010.

2) Customs duty on 'mechanical harvester' for coffee plantation has been reduced from 7.5% to 5%. CVD on such harvesters has also been reduced from 8% to nil, by way of excise duty exemption.

E. EXPORT SECTOR

1) At present, specified raw materials/inputs imported by manufacturer-exporters of sports goods are fully exempt from customs duty, subject to specified conditions. The list of such items has been expanded by including five additional items.

2) Similarly, specified raw materials and equipment imported by manufacturer-exporters of leather goods, textile products and footwear industry are fully exempt from customs duty, subject to specified conditions. The list of such items has been expanded by including additional items.

3) Customs duty on unworked corals has been reduced from 5% to Nil.

F. PRECIOUS METALS

1) Customs duty on serially numbered gold bars (other than tola bars) and gold coins has been increased from Rs.100 per 10 gram to Rs.200 per 10 gram.

2) Customs duty on other forms of gold has been increased from Rs.250 per 10 gram to Rs.500 per 10 gram.

3) Customs duty on silver has been increased from Rs.500 per Kg. to Rs.1000 per Kg.

The above increase in rates is also applicable when gold and silver (including ornaments) are imported as personal baggage.

G. TEXTILES

1) Customs duty on cotton waste has been reduced from 15% to 10%.

2) Customs duty on wool waste has been reduced from 15% to 10%.

H. MISCELLANEOUS

1) Customs duty on rock phosphate has been reduced from 5% to 2%.

2) CVD exemption on Aerial Passenger Ropeway Projects has been withdrawn. Such projects will now attract applicable CVD.

3) Customs duty exemption on concrete batching plants of capacity 50 cum per hour or more has been withdrawn. Such plants will now attract customs duty of 7.5%.

4) On packaged or canned software, CVD exemption has been provided on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions.

5) Customs duty on inflatable rafts, snow-skis, water skis, surf-boats, sail-boards and other water sports equipment has been fully exempted.

I. AMENDMENTS IN THE CUSTOMS ACT, 1962.

[These changes to come into effect from the date of enactment of Finance (No. 2) Bill, 2009 unless otherwise specified]

1) A new section 26A is being inserted in the Customs Act, 1962 to provide for refund of import duty paid on imported goods if they are found to be defective or not conforming to the specifications agreed upon between the importer and the seller, subject to certain conditions. Consequential amendment is also being made in section 157.

2) Section 28F of the Customs Act, 1962 is being amended to provide that the Central Government may by notification authorize the Authority for Advance Rulings constituted under Section 245-O of the Income Tax Act to act as an Authority for the purposes of customs, central excise and service tax subject to some modification regarding the constitution of the Authority. The change will come into effect from a date to be notified.

3) Section 130 of the Customs Act, 1962 is being amended retrospectively with effect from 01.07.2003 so as to make an express provision empowering High Courts to condone delay in filing of appeals beyond the prescribed period.

4) Section 130A of the Customs Act, 1962 is being amended retrospectively with effect from 01.07.1999 so as to make an express provision empowering High Courts to condone delay in filing of applications or memorandum of cross objections beyond the prescribed period.

5) Section 137 of the Customs Act, 1962 is being amended so as to provide for the manner of compounding of offences and to provide that certain offences shall not be compoundable. Consequential amendment is also being made in section 156.

J. AMENDMENTS IN THE CUSTOMS TARIFF ACT, 1975.

[These changes to come into effect from the date of enactment of Finance (No. 2) Bill, 2009]

1) Section 3 of the Customs Tariff Act, 1975 is being amended so as to provide that where the Central Government has fixed tariff value for collection of central excise duty on an article produced or manufactured in India, the value of a like imported article shall be such tariff value.

2) Section 8B and 8C of the Customs Tariff Act, 1975 are being amended retrospectively so as to extend the machinery provisions of the Customs Act, 1962 to safeguard duties levied under these sections.

3) Section 9 of the Customs Tariff Act, 1975 is being amended retrospectively so as to extend the machinery provisions of the Customs Act, 1962 to countervailing duty levied under this section.

4) Section 9A of the Customs Tariff Act, 1975 is being amended to,-

(a) provide that the margin of dumping in relation to an article exported by an exporter or producer shall be determined on the basis of records maintained by such exporter or producer and on the basis of information available in the case of non-cooperating exporter or producer.

(b) extend retrospectively the machinery provisions of the Customs Act, 1962 to anti-dumping duties levied under this section.

5) Para (A) in Note 2 of Section XI of the Customs Tariff Act, 1975 is being substituted by a new para so as to align it with the parallel provision in the Central Excise Tariff Act,1985.

6) Notification No. 40/2006-Customs dated 01.05.2006 is being amended retrospectively from its date of issue so as to,

(a) allow facility of rebate under rule 18 or rule 19 of Central Excise rules, 2002 in respect of materials which have been locally procured and have been used in the manufacture of goods exported under the Duty Free Import Authorisation Scheme.

(b) provide that goods procured under duty free replenishment in respect of which the facility under rule 18 or 19 has been availed shall be used in the manufacture of dutiable goods in the factory of the exporter or in the factory of his supporting manufacturer even after discharge of export obligation.

(c) provide that the importer shall pay an amount equal to additional duty of customs together with interest @ 15% per annum from the date of clearances of the said materials in case the materials are imported against an authorisation transferred by the regional authority or such materials are transferred with the permission of the regional authority. However, no such amount shall be payable in respect of authorisation issued from 01.05.2006 to 31.03.2007.

(d) define dutiable goods for the purpose of the notification.

7) Notification No. 27/2009-Customs (NT) dated 17.03.2009 provides for officers of DGCEI to act as officers of customs with all India jurisdiction. This notification has been given retrospective effect from 09.05.2000.

CENTRAL EXCISE

Changes come into effect immediately unless otherwise specified.

Major proposals about central excise duties are the following:

A. RATE STRUCTURE

The excise duty rate on items currently attracting 4% duty has been increased to 8% with the following major exceptions:

- Specified food items including biscuits, sherbats, cakes and pastries
- Drugs and pharmaceutical products falling under Chapter 30
- Medical equipment
- Certain varieties of paper, paperboard and articles thereof
- Paraxylene
- Power driven pumps for handling water
- Footwear of RSP exceeding Rs.250 but not exceeding Rs.750 per pair
- Pressure cookers
- Vacuum and gas filled bulbs of RSP not exceeding Rs.20 per bulb
- Compact Fluorescent Lamps
- Cars for physically handicapped persons

B. AUTOMOBILE SECTOR

1) Specific component of excise duty applicable to large cars/utility vehicles of engine capacity 2000cc and above has been reduced from Rs.20,000/- per vehicle to Rs.15,000 per vehicle.

2) Excise duty on petrol driven trucks/lorries has been reduced from 20% to 8%. Excise duty on chassis of such trucks/lorries has been reduced from '20% + Rs.10000' to '8% + Rs.10000'.

C. PETROLEUM SECTOR

1) Excise duty on Special Boiling Point spirits has been reduced to 14%.

2) Excise duty on naphtha has been reduced to 14%.

3) Duty paid High Speed Diesel blended with upto 20% bio-diesel has been fully exempted from excise duties.

4) The ad valorem component of excise duty of 6% on petrol intended for sale with a brand name has been converted into a specific rate. Consequently, such petrol would now attract total excise duty of Rs.14.50 per litre instead of '6% + Rs.13 per litre'.

5) The ad valorem component of excise duty of 6% on diesel intended for sale with a brand name has been converted into a specific rate. Consequently, such diesel would now attract total excise duty of Rs.4.75 per litre instead of '6% + Rs.3.25 per litre'.

D. TEXTILES

1) Excise duty on manmade fibre and yarn has been increased from 4% to 8%.

2) Excise duty on PTA and DMT has been increased from 4% to 8%.

3) Excise duty on polyester chips has been increased from 4% to 8%.

4) Excise duty on acrylonitrile has been increased from 4% to 8%.

5) The scheme of optional excise duty of 4% for pure cotton has been restored.

6) Excise duty for man-made and natural fibres other than pure cotton, beyond the fibre and yarn stage, has been increased from 4% to 8% under the existing optional scheme.

7) An optional excise duty exemption has been provided to tops of manmade fibre manufactured from duty paid tow using 'tow-to-top' process at par with tops manufactured from duty paid staple fibre.

8) Suitable adjustments have been made in the rates of duty applicable to DTA clearances of textile goods made by Export Oriented Units using indigenous raw materials/inputs for manufacture of such goods.

E. MISCELLANEOUS

1) Full exemption from excise duty has been provided on goods of Chapter 68 manufactured at the site of construction for use in construction work at such site.

2) Excise duty exemption on 'recorded smart cards' and 'recorded proximity cards and tags' has been made optional. Manufacturers have the option to pay the applicable excise duty and avail the credit of duty paid on inputs.

3) EVA compound manufactured on job work for further use in manufacture of footwear has been exempted from excise duty.

4) Benefit of SSI exemption scheme has been extended to printed laminated rolls bearing the brand name of another person by excluding this item from the purview of the brand name restriction.

5) On packaged or canned software, excise duty exemption has been provided on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions.

6) Excise duty on branded articles of jewellery has been reduced from 2% to Nil.

F. AMENDMENTS IN CENTRAL EXCISE ACT, 1944

[These changes to come into effect on enactment of the Finance (No.2) Bill 2009]

1) Section 9A of the Central Excise Act is being amended so as to provide for the manner of compounding of offences and to provide that certain offences and circumstances shall not be compoundable. Consequential amendment is also being made in section 37 of the Central Excise Act.

2) Sections 14A and 14AA of the Central Excise Act are being amended so as to empower the Chief Commissioner of Central Excise to nominate a Chartered Accountant for conducting special audit under these provisions.

3) Section 23A of the Central Excise Act is being amended so as to substitute the definition of the 'Authority for Advance Rulings' to include therein the authority authorized under section 28F of the Customs Act.

4) Section 35G of the Central Excise Act is being amended retrospectively with effect from 01.07.2003 so as to make an express provision to empower High Courts to condone delay in filing of appeals beyond the prescribed period.

5) Section 35H of the Central Excise Act is being amended retrospectively with effect from 01.07.1999 so as to make an express provision to empower High Courts to condone delay in filing of applications or memorandum of cross objections beyond the prescribed period.

G. AMENDMENTS IN FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985.

[These changes to come into effect immediately]

1) Note 1 to Chapter 8 in the First Schedule to the Central Excise Tariff Act, 1985 has been substituted so as to exclude 'betel nut product known as supari' of tariff item 2106 9030 from its purview.

2) A Note (No. 6) has been inserted in Chapter 21 so as to provide that in relation to product of tariff item 2106 90 30 the process of adding or mixing cardamom, copra, menthol, spices, sweetening agents or any such ingredients, other than lime, katha (catechu) or tobacco to betel nut in any form shall amount to 'manufacture'.

3) In Chapter 58, against tariff item 5801 22 10, in column (3) and (4), the entries 'm2' and '8%' respectively are being inserted.

H. AMENDMENTS IN CENTRAL EXCISE RULES AND CENVAT CREDIT RULES.

[These changes to come into effect immediately unless specified otherwise]

1) A new rule is being inserted in Central Excise Rules, 2002 to provide that records seized by the department during an investigation but not relied upon in the Show Cause Notice should be returned to the party within 30 days of issue of Show Cause Notice.

2) An explanation is being inserted in Rule 2 of Cenvat Credit rules, 2004 so as to clarify that 'inputs' shall not include cement, angles, channels, CTD or TMT bars and other items used for construction of shed, building or structure for support of capital goods.

3) Notification Nos. 33/97-CE (NT) dated 01.08.1997, 44/97-CE (NT) dated 30.08.1997 and 7/98-CE (NT) dated 10.03.1998 are being amended with retrospective effect from the date of issue of respective notifications so as to provide the Central Government with the power to notify rates of excise duty under these notifications by virtue of powers conferred on it by the erstwhile section 3A of the Central Excise Act [These changes to come into effect on enactment of the Finance (No.2) Bill 2009] .

4) Rule 6 (3) of the Cenvat Credit Rules, 2004 is being amended to prescribe that a manufacturer of both dutiable and exempted goods, who does not maintain separate accounts of inputs, shall pay an amount equal to 5% of the total price of the exempted goods instead of 10%.

SERVICE TAX

I. SERVICE TAX IS BEING IMPOSED ON THE FOLLOWING SPECIFIED SERVICES:

1) Service provided in relation to transport of goods by rail

2) Service provided in relation to transport of (i) coastal goods; and (ii) goods through Inland Water including National Waterways

3) Legal consultancy service

4) Cosmetic and plastic surgery service

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

II. SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXTENDED OR ALTERED AS FOLLOWS:

1) The definition of Business Auxiliary Service (BAS) is being amended so as to provide that only those processes, which result in the manufacture of 'excisable goods' (as defined in the Central Excise Act) are excluded from the purview of BAS.

2) The definition of 'Information Technology Software Service' is being amended to replace the word 'acquiring' with the word 'providing' [appearing in Sl. No. (iv) and (v) of the definition]. The amendment is being given retrospective effect from 16.05.2008.

3) The definition of stock-broker (in stock-broker service) is being amended to exclude sub-broker from its ambit. As a consequence, sub-brokers will be outside the purview of service tax.

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

III. AMENDMENTS IN ACT

1) Finance Act, 1994 is being amended to:-

(a) abolish revision procedure prescribed under section 84 and to prescribe the procedure of filing departmental appeals before the Commissioner (Appeal) in service tax cases similar to the central excise procedure. Accordingly, section 84 pertaining to revision by Commissioner is being modified and consequential changes are being made in section 86. A saving clause is being provided to protect the pending cases.

(b) empower the Central Government to frame rules with respect to the place of provision of taxable services; and with respect to the relevant date for determination of the rate of service tax.

The above changes would come into effect from the date of the enactment of the Finance (No. 2) Bill, 2009.

IV. AMENDMENTS IN THE RULES AND EXISTING NOTIFICATIONS

1) The scope of notification No. 1/2002–ST dated 01.03.2002 is being enlarged by extending the applicability of service tax provisions to installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zones of India.

2) Rule 6 (3) of the Cenvat Credit Rules, 2004 is being amended to prescribe that a provider of both taxable and exempted services, who does not maintain separate accounts of inputs, shall pay an amount equal to 6% of the value of exempted services instead of 8%.

3) Rule 3 (5B) of the Cenvat Credit Rules, 2004 is being amended so as to provide that a service provider shall pay back the amount of credit taken on inputs/capital goods fully written off.

4) Explanation provided in the Works Contract Rules, 2007 is being modified so as to allow the benefit of optional composition scheme only to such works contracts where the taxpayer declares the entire value of goods (whether supplied under any other contract for a consideration or otherwise) and services used in the execution of the works contract as the 'gross value'charged for the works contract. This restriction would not apply to current works contracts where either the execution has commenced or any payment has been made on or before 07.07.2009.

The changes mentioned in S. Nos. (1) to (4) above will come into effect immediately.

5) Retrospective effect is being given to notification No. 1/2009-ST dated 5.1.2009 (relating to Goods Transport Agency service) from 01.01.2005. This provision is being given effect to through the Finance (No. 2) Bill, 2009 and will come into effect from the date of enactment of the said Bill.

V. EXEMPTIONS

1) Exemption from service tax is being provided to inter-state or intra-state transportation of passengers in a vehicle bearing 'Contract Carriage Permit' with specified conditions.

2) Exemption from service tax (leviable under Club or Association Service) is being provided to the Federation of Indian Export Organizations (FIEO) and specified Export Promotions Councils. The exemption is valid till 31.03.2010.

3) Exemption from service tax (leviable under banking and other financial services or under foreign exchange broking service) is being provided to inter-bank purchase and sale of foreign currency between scheduled banks.

The above changes will come into effect immediately.

VI. REFUND SCHEME FOR EXPORTERS

Notification No. 41/2007-ST dated 06.10.2007 provides for refund of service tax paid on services, which though not in the nature of input services, are relatable to export of goods. The scheme is being revamped to ensure speedier grant of refunds to the exporters. The salient features of the new scheme, being notified under two notifications, both dated 07.07.2009, are as follows:

(a) Two taxable services, namely, 'Transport of goods by road' and 'Commission paid to foreign agents' have been exempted from the levy of service tax, if the exporter is liable to pay service tax on reverse charge basis. However, as the present cap of 10% on commission agency charges has been retained, the exporter will have to pay service tax on the amount of commission which is in excess of 10%.

(b) Following are some of the salient features of the revamped refund scheme, notified in supersession of notification No.41/2007-ST dated 06.10.2007:

- 'Terminal Handling Charges' is being added to the list of eligible services.
- The time period for filing a refund claim is being increased to one year from the date of export. The condition for filing refund claims once in a quarter is being dispensed with. Now the exporter can file a refund claim anytime after each export shipment.
- A simplified format is being prescribed for filing refund claims.
- Self-certification is being introduced to ensure faster sanction and disbursement of refunds. In a case, where total amount of refund claim does not exceed 0.25% of the total f.o.b. value of exports under a claim, a self-certification by the exporter on the relevant documents to the effect that: (a) the eligible services have been received by him; (ii) the service tax payable thereon has been reimbursed; and (iii) such services have been used for the export, would be sufficient. The refunds shall be granted within one month without any pre-audit.
- In a case, where amount of refund claim exceeds 0.25% of the f.o.b. value of exports, the documents submitted by the exporter should be certified by the chartered accountant, who audits his annual accounts. On the basis of such certification, the refund claim shall be sanctioned within one month without any pre-audit.

FINANCE BILL 2009

THE FINANCE (No. 2) BILL, 2009
A
BILL
BILL *to give effect to the financial proposals of the Central Government for the financial year* 2009-2010.
BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. (*1*) This Act may be called the Finance (No. 2) Act, 2009.

(*2*) Save as otherwise provided in this Act, sections 2 to 83 shall be deemed to have come into force on the 1st day of April, 2009.

CHAPTER II
RATES OF 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, 2009, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

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

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

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

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

Provided also that the amount of income-tax so arrived at, shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(*3*) In cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income- tax Act ,1961(hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (*1*) or the rates as specified in that Chapter or section, as the case may be:

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

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

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds ten lakh rupees;

(*b*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax;

(*c*) in the case of every firm and domestic company, at the rate of ten per cent. of such income-tax where the total income exceeds one crore rupees;

(*d*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax where the total income exceeds one crore rupees:

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

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

(*a*) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of income-tax where the fringe benefits exceed ten lakh rupees;

(*b*) in the case of every firm, artificial juridical person referred to in sub-clause (*v*) of clause (*a*) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such income-tax;

(*c*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax.

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

(*6*) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two and one-half per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(*7*) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, 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, in the case of every company, other than a domestic company, calculated at the rate of two and one-half per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(*9*) Subject to the provisions of sub-section (*10*), in cases in which income-tax has to be charged under sub-section (*4*) of section 172 or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as 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 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the First Schedule pertaining to the case of a company:

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

(*a*) in the case of every domestic company, at the rate of ten per cent. of such "advance tax" where the total income exceeds one crore rupees;

(*b*) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax" where the total income exceeds one crore rupees:

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

(*10*) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh sixty thousand rupees, then, in charging income-tax under sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

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

(*b*) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

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

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

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

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

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

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

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (*5*), (*6*), (*7*) and (*8*), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(*12*) The amount of income-tax as specified in sub-sections (*1*) to (*10*) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (*5*), (*6*), (*7*) and (*8*), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

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

(*a*) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2009, 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

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

(*a*) in clause (*15*), after the words "medical relief,", the words and brackets "preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest," shall be inserted;

(*b*) after clause (*22AA*), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

'(*22AAA*) "electoral trust" means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government;';

(*c*) for clause (*23*), the following clause shall be substituted with effect from the 1st day of April, 2010, namely:—

'(*23*) (*i*) "firm" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

(*ii*) "partner" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include,—

(*a*) any person who, being a minor, has been admitted to the benefits of partnership; and

(*b*) a partner of a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

(*iii*) "partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;';

(*d*) in clause (*24*), in sub-clause (*iia*), after the word and figures "section 10", the words "or by an electoral trust" shall be inserted with effect from the 1st day of April, 2010;

(*e*) after clause (*29B*), the following clause shall be inserted, namely:—

'(*29BA*) "manufacture", with its grammatical variations, means a change in a non-living physical object or article or thing,—

(*a*) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(*b*) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;';

(*f*) in clause (*48*),—

(*i*) in sub-clauses (*a*) and (*b*), after the words "public sector company", the words "or scheduled bank" shall respectively be inserted;

(*ii*) after clause (*c*), the following *Explanation* shall be inserted, namely:—

'*Explanation*.— For the purposes of this clause, the expression "scheduled bank" shall have the meaning assigned to it in clause (*ii*) of the *Explanation* to sub-clause (*c*) of clause (*viia*) of sub-section (*1*) of section 36.'.

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

(*a*) in clause (*10C*), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

"Provided also that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year.";

(*b*) in clause (*23C*), in the fourteenth proviso, for the words "made at any time during the financial year immediately preceding the assessment year", the words, figures and letters "made on or before the 30th day of September of the relevant assessment year" shall be substituted;

(*c*) in clause (*23D*), in the *Explanation*, in clause (*a*), after the words, brackets and figures "Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980", the words"and a bank included in the category 'other public sector banks' by the Reserve Bank of India" shall be inserted with effect from the 1st day of April, 2010;

(*d*) after clause (*43*), the following clause shall be inserted, namely:—

"(*44*) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882.".

5. In section 10A of the Income-tax Act, in sub-section (*1*), in the fourth proviso, for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted.

6. In section 10AA of the Income-tax Act, in sub-section (*7*), for the words "by the assessee" occurring at the end, the words "by the undertaking" shall be substituted with effect from the 1st day of April, 2010.

7. In section 10B of the Income-tax Act, in sub-section (*1*), in the third proviso, for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted.

8. After section 13A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

"13B. Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

(*a*) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(*b*) such electoral trust functions in accordance with the rules made by the Central Government.".

9. In section 17 of the Income-tax Act, in clause (*2*), for sub-clause (*vi*), the following sub-clauses shall be substituted with effect from the 1st day of April, 2010, namely:—

'(*vi*) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

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

(*a*) "specified security" means the securities as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(*b*) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(*c*) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from the assessee in respect of such security or shares;

(*d*) "fair market value" means the value determined in accordance with the method as may be prescribed;

(*e*) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(*vii*) the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees;

(*viii*) the value of any other fringe benefit or amenity as may be prescribed:'.

10. In section 28 of the Income-tax Act, after clause (*vi*), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:-

"(*vii*) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD;".

11. In section 32 of the Income-tax Act, in sub-section (*1*), in *Explanation* 3, for the words 'the expressions "assets" and "block of assets"', the words 'the expression "assets"' shall be substituted with effect from the 1st day of April, 2010.

12. In section 35 of the Income-tax Act, in sub-section (*2AB*), in clause (*1*), for the words "the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board", the words "any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule" shall be substituted with effect from the 1st day of April, 2010.

13. After section 35AC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

'35AD. (*1*) An assessee shall be allowed a deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the previous year in which such expenditure is incurred by him.

(*2*) This section applies to the specified business which fulfils all the following conditions, namely:—

(*i*) it is not set up by splitting up, or the reconstruction, of a business already in existence;

(*ii*) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;

(*iii*) where the business is of the nature referred to in sub-clause (*iii*) of clause (*c*) of sub-section (*8*), such business,—

(*a*) is owned by a company formed and registered in India under the Companies Act, 1956 or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;

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

(*c*) has made not less than one-third of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person; and

(*d*) fulfils any other condition as may be prescribed.

(*3*) The assessee shall not be allowed any deduction in respect of the specified business under the provisions of Chapter VIA under the heading "C.— *Deductions in respect of certain incomes*".

(*4*) No deduction in respect of the expenditure referred to in sub-section (*1*) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year.

(*5*) The provisions of this section shall apply to the specified business referred to in sub-section (*2*) if it commences its operations,—

(*a*) on or after the 1st day of April, 2007, where the specified business is in the nature of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network; and

(*b*) on or after the 1st day of April, 2009, in all other cases not falling under clause (*a*).

(*6*) The assessee carrying on the business of the nature referred to in clause (*a*) of sub-section (*5*) shall be allowed, in addition to deduction under sub-section (*1*), a further deduction in the previous year relevant to the assessment year beginning on the 1st day of April, 2010, of an amount in respect of expenditure of capital nature incurred during any earlier previous year, if—

(*a*) the business referred to in clause (*a*) of sub-section (*5*) has commenced its operation at any time during the period beginning on or after the 1st day of April, 2007 and ending on the 31st day of March, 2009; and

(*b*) no deduction for such amount has been allowed or is allowable to the assessee in any earlier previous year.

(*7*) The provisions contained in sub-section (*6*) of section 80A and the provisions of sub-sections (*7*) and (*10*) of section 80-IA shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(*8*) For the purposes of this section,—

(*a*) an "associated person", in relation to the assessee, means a person,—

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

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

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

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

(*b*) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(*c*) "specified business" means the any one or more of the following business, namely:—

(*i*) setting up and operating a cold chain facility;

(*ii*) setting up and operating a warehousing facility for storage of agricultural produce;

(*iii*) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

(*d*) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(*i*) such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India;

(*ii*) such machinery or plant is imported into India from any country outside India; and

(*iii*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(*e*) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in such business, then, for the purposes of clause (*ii*) of sub-section (*2*), the condition specified therein shall be deemed to have been complied with;

(*f*) any expenditure of capital nature shall not include any expenditure incurred on the acquisition of any land or goodwill or financial instrument.'.

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

(*a*) in clause (*iiia*), in the *Explanation*, in clause (*i*), after the words "public sector company", at both the places where they occur, the words "or scheduled bank" shall be inserted;

(*b*) in clause (*viii*), in the *Explanation*, in clause (*b*), for sub-clause (*i*), the following sub-clause shall be substituted with effect from the 1st day of April, 2010, namely:—

"(*i*) in respect of the specified entity referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*iv*) of clause (*a*), the business of providing long-term finance for—

(*A*) industrial or agricultural development;

(*B*) development of infrastructure facility in India; or

(*C*) development of housing in India;";

(*c*) clause (*xvi*) shall be omitted.

15. In section 40 of the Income-tax Act, in clause (*b*), in sub-clause (*v*), for items (1) and (2), the following shall be substituted with effect from the 1st day of April, 2010, namely :—

"(*a*) on the first Rs.3,00,000 of the Rs.1,50,000 or at the rate of 90 per cent. of book-profit or in case of a loss thebook-profit, whichever is more;

(*b*) on the balance of the book-profit at the rate of 60 per cent.".

16. In section 40A of the Income-tax Act, in sub-section (*3A*), after the proviso, the following proviso shall be inserted with effect from the 1st day of October, 2009, namely:—

'Provided further that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (*3*) and (*3A*) shall have effect as if for the words "twenty thousand rupees", the words "thirty-five thousand rupees" had been substituted.'.

17. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2010,—

(*a*) in clause (*1*), after *Explanation* 12, the following *Explanation* shall be inserted, namely:—

"*Explanation* 13.— The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil',—

(*a*) in the case of such assessee; and

(*b*) in any other case if the capital asset is acquired or received,—

(*i*) by way of gift or will or an irrevocable trust;

(*ii*) on any distrbution on liquidation of the company; and

(*iii*) by such mode of transfer as is referred to in clauses (*i*), (*iv*), (*v*), (*vi*), (*vib*), (*xiii*) and (*xiv*) of section 47;";

(*b*) in clause (*6*), after *Explanation* 6, the following *Explanation* shall be inserted, namely:—

'*Explanation* 7.— For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.'.

18. In section 44AA of the Income-tax Act, in sub-section (*2*), with effect from the 1st day of April, 2011,—

(*a*) in clause (*iii*),—

(*i*) for the words, figures and letters "section 44AD or section 44AE or section 44AF", the word, figures and letters "section 44AE" shall be substituted;

(*ii*) for the words "previous year," occurring at the end, the words "previous year; or" shall be substituted;

(*b*) after clause (*iii*), the following clause shall be inserted, namely:—

"(*iv*) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax during such previous year,".

19. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2011,—

(*a*) in clause (*c*),—

(*i*) for the words, figures and letters "section 44AD or section 44AE or section 44AF", the word, figures and letters "section 44AE" shall be substituted;

(*ii*) for the words "previous year," occurring at the end, the words "previous year; or" shall be substituted;

(*b*) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,".

20. For section 44AD of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2011, namely:—

'44AD. (*1*) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent. of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(*2*) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (*1*), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

PHOTO REUTERS

POWER: In the dark. A demand-supply gap of over 15,000 Mw has made unscheduled loadshedding common throughout urban India. Half the rural population doesn't even have access to electricity.

Provided that where the eligible assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (*1*) subject to the conditions and limits specified in clause (*b*) of section 40.

(*3*) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(*4*) The provisions of Chapter XVII-C shall not apply to an eligible assessee in so far as they relate to the eligible business.

(*5*) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (*1*) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (*2*) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

Explanation.— For the purposes of this section,—

(*a*) "eligible assessee" means,—

(*i*) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (*n*) of sub-section (*1*) of section 2 of the Limited Liability Partnership Act, 2008; and

(*ii*) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "*C.—Deductions in respect of certain incomes*" in the relevant assessment year;

(*b*) "eligible business" means,—

(*i*) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

(*ii*) whose total turnover or gross receipts in the previous year does not exceed an amount of forty lakh rupees.'.

21. In section 44AE of the Income-tax Act, for sub-section (*2*), the following sub-section shall be substituted with effect from the 1st day of April, 2011, namely:—

"(*2*) For the purposes of sub-section (*1*), the profits and gains from each goods carriage,—

(*i*) being a heavy goods vehicle, shall be an amount equal to five thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;

(*ii*) other than a heavy goods vehicle, shall be an amount equal to four thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher.".

22. In section 44AF of the Income-tax Act, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*6*) Nothing contained in this section shall apply to any assessment year beginning on or after the 1st day of April, 2011.".

23. In section 49 of the Income-tax Act, for sub-section (*2AA*), the following sub-section shall be substituted with effect from the 1st day of April, 2010, namely:—

"(*2AA*) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (*vi*) of clause (*2*) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.".

24. In section 50B of the Income-tax Act, in *Explanation* 2, for clause (*b*), the following clauses shall be substituted with effect from the 1st day of April, 2010, namely:—

"(*b*) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, *nil*; and

(*c*) in the case of other assets, the book value of such assets.".

25. In section 50C of the Income-tax Act, with effect from the 1st day of October, 2009,—

(*a*) for the words "or assessed" wherever they occur, the words "or assessed or assessable" shall be substituted;

(*b*) in sub-section (*2*), the *Explanation* shall be numbered as *Explanation* 1 thereof and after *Explanation* 1 as so numbered, the following *Explanation* shall be inserted, namely:—

'*Explanation* 2.—For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.'.

26. In section 56 of the Income-tax Act, in sub-section (*2*),—

(*a*) with effect from the 1st day of October, 2009,—

(*i*) in clause (*vi*), after the words, figures and letters "on or after the 1st day of April, 2006", the words, figures and letters "but before the 1st day of October, 2009" shall be inserted;

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

'(*vii*) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*i*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*ii*) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration;

(*c*) any property, other than immovable property,—

(*i*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*ii*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that where the stamp duty value of immovable property as referred to in sub-clause (*b*) is disputed by the assessee on grounds mentioned in sub-section (*2*) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (*15*) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (*b*) as they apply for valuation of capital asset under that section:

Provided further that this clause shall not apply to any sum of money or any property received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer or donor, as the case may be; or

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

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

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

Explanation.—For the purposes of this clause,—

(*a*) "assessable" shall have the meaning assigned to it in the *Explanation* 2 to sub-section (*2*) of section 50C;

(*b*) "fair market value" of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

(*c*) "jewellery" shall have the meaning assigned to it in the *Explanation* to sub-clause (*ii*) of clause (*14*) of section 2;

(*d*) "property" means—

(*i*) immovable property being land or building or both;

(*ii*) shares and securities;

(*iii*) jewellery;

(*iv*) archaeological collections;

(*v*) drawings;

(*vi*) paintings;

(*vii*) sculptures; or

(*viii*) any work of art;

(*e*) "relative" shall have the meaning assigned to it in the *Explanation* to clause (*vi*) of sub-section (*2*) of this section;

(*f*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;

(*b*) after clause (*vii*) as so inserted, the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

"(*viii*) income by way of interest received on compensation or on enhanced compensation referred to in sub-section (*2*) of section 145A.".

27. In section 57 of the Income-tax Act, after clause (*iii*), the following clause shall be inserted at the end with effect from the 1st day of April, 2010, namely:—

"(*iv*) in the case of income of the nature referred to in clause (*viii*) of sub-section (*2*) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of this section.".

28. After section 73 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

"73A. (*1*) Any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business.

(*2*) Where for any assessment year any loss computed in respect of the specified business referred to in sub-section (*1*) has not been wholly set off under sub-section (*1*), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and —

(*i*) it shall be set off against the profits and gains, if any, of any specified business carried on by him assesssable for that assessment year; and

(*ii*) if the loss can not be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.".

29. In section 80A of the Income-tax Act,—

(*a*) after sub-section (*3*), the following sub-sections shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 2003, namely:—

'(*4*) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "*C-Deductions in respect of certain incomes*", where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

(*5*) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "C.—*Deductions in respect of certain incomes*", no deduction shall be allowed to him thereunder.';

(*b*) after sub-section (*5*) as so inserted, the following sub-section shall be inserted, namely:—

'(*6*) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "*C-Deductions in respect of certain incomes*", where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

Explanation.—For the purposes of this sub-section, the expression "market value",—

(*i*) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(*ii*) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any.'.

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

(*a*) in sub-section (*1*), in the opening portion, after the words, figures and letters "Where an assessee, being an individual employed by the Central Government or any other employer on or after the 1st day of January, 2004,", the words "or any other assessee, being an individual" shall be inserted;

(*b*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) For the purposes of this section, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.".

31. In section 80DD of the Income-tax Act, in sub-section (*1*), in the proviso, for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" shall be substituted with effect from the 1st day of April, 2010.

32. In section 80E of the Income-tax Act, in sub-section (*3*), for clause (*c*), the following clause shall be substituted with effect from the 1st day of April, 2010, namely:—

'(*c*) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so;'.

33. In section 80G of the Income-tax Act, in sub-section (*5*),—

(*a*) in clause (*v*), the word "and" at the end shall be omitted;

(*b*) in clause (*vi*), for the words "made in this behalf", the words "made in this behalf; and" shall be substituted;

(*c*) in clause (*vi*), the proviso shall be omitted with effect from the 1st day of October, 2009;

(*d*) after clause (*vi*), the following clause shall be inserted, namely:—

"(*vii*) where any institution or fund had been approved under clause (*vi*) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (*15*) of section 2, be deemed to have been,—

(*a*) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and

(*b*) approved under the said clause (*vi*) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009.".

34. In section 80GGB of the Income-tax Act, after the words "political party", the words "or an electoral trust" shall be inserted with effect from the 1st day of April, 2010.

35. In section 80GGC of the Income-tax Act, for the words "to a political party", the words "to a policital party or an electoral trust" shall be substituted with effect from the 1st day of April, 2010.

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

(*a*) in sub-section (*1*), the words "or lays and begins to operate a cross-country natural gas distribution network" shall be omitted with effect from the 1st day of April, 2010;

(*b*) in sub-section (*3*), the words, brackets and letters "or clause (*vi*)" shall be omitted with effect from the 1st day of April, 2010;

(*c*) in sub-section (*4*),—

(*A*) in clause (*iv*), for the words, figures and letters "the 31st day of March, 2010" wherever they occur, the words, figures and letters "31st day of March, 2011" shall respectively be substituted;

(*B*) in clause (*v*), in sub-clause (*b*), for the figures, letters and words "31st day of March, 2008", the figures, letters and words "31st day of March, 2011" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2008;

(*C*) clause (*vi*) shall be omitted with effect from the 1st day of April, 2010;

(*d*) after sub-section (*13*), for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply in relation to a business referred to in sub-section (*4*) which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (*1*).".

37. In section 80-IB of the Income-tax Act,—

(*a*) for sub-section (*9*), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—

'(*9*) The amount of deduction to an undertaking shall be hundred per cent. of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils any of the following, namely:—

(*i*) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before the 1st day of April, 1997;

(*ii*) is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997;

(*iii*) is engaged in refining of mineral oil and begins such refining on or after the 1st day of October, 1998.

Explanation.— For the purposes of claiming deduction under this sub-section, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by Central or a State Government in any other manner, shall be treated as a single "undertaking".';

(*b*) in sub-section (*9*), as so substituted,—

(*A*) in clause (*iii*), after the words, figures and letters "the 1st day of October, 1998", the words, figures and letters "but not later than the 31st day of March, 2012" shall be inserted;

(*B*) after clause (*iii*), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

'(*iv*) is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts (hereafter referred to as "NELP-VIII") under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begins commercial production of natural gas on or after the 1st day of April, 2009.';

(*c*) in sub-section (*10*),—

(*i*) after clause (*d*), the following clauses shall be inserted with effect from the 1st day of April, 2010, namely:—

"(*e*) not more than one residential unit in the housing project is allotted to any person not being an individual; and

(*f*) in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons, namely:—

(*i*) the spouse or the minor children of such individual,

(*ii*) the Hindu undivided family in which such individual is the *karta*,

(*iii*) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the *karta*;";

(*ii*) the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Government).".

38. In section 89 of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

"Provided that no such relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (*i*) of clause (*10C*) of section 10, a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (*10C*) of section 10 in respect of such, or any other, assessment year.".

39. For section 90 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely :—

'90. (*1*) The Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India,—

(*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 specified territory, as the case may be, or

(*ii*) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment, or

(*b*) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, or

(*c*) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be, or investigation of cases of such evasion or avoidance, or

(*d*) for recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.

(*2*) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (*1*) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(*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.

Explanation 1.— For the removal of doubts, it is hereby declared that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company.

Explanation 2.— For the purposes of this section, "specified territory" means any area outside India which may be notified as such by the Central Government.'.

40. In section 92C of the Income-tax Act, in sub-section (*2*), for the proviso, the following provisos shall be substituted with effect from the 1st day of October, 2009, namely:—

"Provided that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices:

Provided further that if the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed five per cent. of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price.".

41. After section 92CA of the Income-tax Act, the following section shall be inserted, namely:—

'92CB. (*1*) The determination of arm's length price under section 92C or section 92CA shall be subject to safe harbour rules.

(*2*) The Board may, for the purposes of sub-section (*1*), make rules for safe harbour.

Explanation.—For the purposes of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.'.

42. In section 115BBC of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of April, 2010, -

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

"(*i*) the amount of income-tax calculated at the rate of thirty per cent of the aggregate of anonymous donation, as exceeds five per cent. of the total income of the assessee or an amount of rupees one lakh, whichever is higher; and";

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

"(*ii*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income subject to tax under clause (*i*).".

43. In section 115JA of the Income-tax Act, in sub-section (*2*), after the second proviso, in the *Explanation*, after clause (*f*), for the words, brackets and letters "if any amount referred to in clauses (*a*) to (*f*) is debited to the profit and loss account, and as reduced by,—" the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998, namely:—

"(*g*) the amount or amounts set aside as provision for diminution in the value of any asset,

if any amount referred to in clauses (*a*) to (*g*) is debited to the profit and loss account, and as reduced by,—".

44. In section 115JAA of the Income-tax Act, in sub-section (*3A*), for the words "seventh

assessment year", the words "tenth assessment year" shall be substituted with effect from the 1st day of April, 2010.

45. In section 115JB of the Income-tax Act,—

(*a*) in sub-section (*1*), with effect from the 1st day of April, 2010,—

(*i*) for the words, figures and letters "the 1st day of April, 2007", the words, figures and letters "the 1st day of April, 2010" shall be substituted;

(*ii*) for the words "ten per cent.", at both the places where they occur, the words "fifteen per cent." shall be substituted;

(*b*) in sub-section (*2*), after the second proviso, in *Explanation* 1, after clause (*h*), for the words, brackets and letters "if any amount referred to in clauses (*a*) to (*h*) is debited to the profit and loss account, and as reduced by-", the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—

"(*i*) the amount or amounts set aside as provision for diminution in the value of any asset,

if any amount referred to in clauses (*a*) to (*i*) is debited to the profit and loss account, and as reduced by,—".

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

"(*1A*) The amount referred to in sub-section (*1*) shall be reduced by,—

(*i*) the amount of dividend, if any, received by the domestic company during the financial year, if—

(*a*) such dividend is received from its subsidiary;

(*b*) the subsidiary has paid tax under this section on such dividend; and

(*c*) the domestic company is not a subsidiary of any other company:

Provided that the same amount of dividend shall not be taken into account for reduction more than once;

(*ii*) the amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in clause (*44*) of section 10.

Explanation.— For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company, holds more than half in nominal value of the equity share capital of the company." .

47. In section 115WE of the Income-tax Act, in sub-section (*1B*), for the words, figures and letters "after the 31st day of March, 2009", the words, figures and letters "after the 31st day of March, 2010" shall be substituted.

48. After section 115WL of the Income-tax Act, the following section shall be inserted, namely:—

"115WM. Nothing contained in this Chapter shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year.".

49. In section 131 of the Income-tax Act, in sub-section (*1*), for the words "and Chief Commissioner or Commissioner", the words ", Chief Commissioner or Commissioner and the Dispute Resolution Panel referred to in clause (*a*) of sub-section (*15*) of section 144C" shall be substituted with effect from the 1st day of October, 2009.

50. In section 132 of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "Where the Director General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board,", the words "Where the Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1994;

(*ii*) after the words "Where the Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner" as so substituted, the words "or Joint Director or Joint Commissioner" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998;

(*iii*) in clause (*A*), after the words "may authorise any", the words "Additional Director or Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(*iv*) in clause (*B*), after the word "such", the words "Additional Director or Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(*v*) after the third proviso, the following proviso shall be inserted, namely :—

"Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.";

(*b*) in sub-section (*1A*),—

(*i*) for the words "Commissioner or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board", the words "Commissioner or Additional Director or Additional Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1994;

(*ii*) after the words "Commissioner or Additional Director or Additional Commissioner" as so substituted, the words "or Joint Director or Joint Commissioner" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998.

51. In section 132A of the Income-tax Act, in sub-section (*1*), after clause (*c*), after the words "Chief Commissioner or Commissioner may authorise any", the words "Additional Director, Additional Commissioner," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994.

52. In section 139A of the Income-tax Act, with effect from the 1st day of October, 2009,—

(*a*) in sub-section (*5B*), in clause (*iv*), the word "quarterly" shall be omitted;

(*b*) in sub-section (*5D*), in clause (*iii*), the word "quarterly" shall be omitted.

53. In section 140 of the Income-tax Act, after clause (*cc*), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

"(*cd*) in the case of a limited liability partnership, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to sign and verify the return, or where there is no designated partner as such, by any partner thereof.".

54. In section 143 of the Income-tax Act, in sub-section (*1B*), for the words, figures and letters "after the 31st day of March, 2009", the words, figures and letters "after the 31st day of March, 2010" shall be substituted.

55. After section 144B of the Income-tax Act, the following section shall be inserted, namely:—

'144C. (*1*) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee.

(*2*) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—

(*a*) file his acceptance of the variations to the Assessing Officer; or

(*b*) file his objections, if any, to such variation with,—

(*i*) the Dispute Resolution Panel; and

(*ii*) the Assessing Officer.

(*3*) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(*a*) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(*b*) no objections are received within the period specified in sub-section (*2*).

(*4*) The Assessing Officer shall, notwithstanding anything contained in section 153, pass the assessment order under sub-section (*3*) within one month from the end of the month in which,—

(*a*) the acceptance is received; or

(*b*) the period of filing of objections under sub-section (*2*) expires.

(*5*) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (*2*), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(*6*) The Dispute Resolution Panel shall issue the directions referred to in sub-section (*5*), after considering the following, namely:—

(*a*) draft order;

(*b*) objections filed by the assessee;

(*c*) evidence furnished by the assessee;

(*d*) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(*e*) records relating to the draft order;

(*f*) evidence collected by, or caused to be collected by, it; and

(*g*) result of any enquiry made by, or caused to be made by, it.

(*7*) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (*5*),—

(*a*) make such further enquiry, as it thinks fit; or

(*b*) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.

(*8*) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (*5*) for further enquiry and passing of the assessment order.

(*9*) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(*10*) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(*11*) No direction under sub-section (*5*) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.

(*12*) No direction under sub-section (*5*) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(*13*) Upon receipt of the directions issued under sub-section (*5*), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(*14*) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (*2*) by the eligible assessee.

(*15*) For the purposes of this section,—

(*a*) "Dispute Resolution Panel" means a collegium comprising of three Commissioners of Income-tax constituted by the Board for this purpose;

(*b*) "eligible assessee" means,—

(*i*) any person in whose case the variation referred to in sub-section (*1*) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (*3*) of section 92CA; and

(*ii*) any foreign company.'.

56. For section 145A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2010, namely:—

'145A. Notwithstanding anything to the contrary contained in section 145,—

(*a*) the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "Profits and gains of business or profession" shall be-

(*i*) in accordance with the method of accounting regularly employed by the assessee; and

(*ii*) further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.

Explanation.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.

AVIATION: Still to take off. Choked runways, fiscal turbulence and a lot of room for improvement at airports point to a sector that has failed to keep pace with the world's second-fastest growing economy.

(*b*) interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.'.

57. In section 147 of the Income-tax Act, after *Explanation* 2, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

"*Explanation* 3.—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (*2*) of section 148.".

58. After section 167B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

"167C. Notwithstanding anything contained in the Limited Liability Partnership Act, 2008, where any tax due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, in such case, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.".

59. In section 194A of the Income-tax Act, in sub-section (*3*), in clause (*x*), after the words "public sector company" at both the places where they occur, the words "or scheduled bank" shall be inserted.

60. For section 194C of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:—

'194C. (*1*) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(*i*) one per cent. where the payment is being made or credit is being given to an individual or a Hindu undivided family;

(*ii*) two per cent. where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,

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

(*2*) Where any sum referred to in sub-section (*1*) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(*3*) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (*e*) of clause (*iv*) of the *Explanation*, tax shall be deducted at source—

(*i*) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(*ii*) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

(*4*) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(*5*) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed twenty thousand rupees:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section (*1*) shall be liable to deduct income-tax under this section.

(*6*) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

(*7*) The person responsible for paying or crediting any sum to the person referred to in sub-section (*6*) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

Explanation.—For the purposes of this section,—

(*i*) "specified person" shall mean,—

(*a*) the Central Government or any State Government; or

(*b*) any local authority; or

(*c*) any corporation established by or under a Central, State or Provincial Act; or

(*d*) any company; or

(*e*) any co-operative society; or

(*f*) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(*g*) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

(*h*) any trust; or

(*i*) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or

(*j*) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(*k*) any firm; or

(*l*) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(*A*) does not fall under any of the preceding sub-clauses; and

(*B*) is liable to audit of accounts under clause (*a*) or clause (*b*) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(*ii*) "goods carriage" shall have the meaning assigned to it in the *Explanation* to sub-section (*7*) of section 44AE;

(*iii*) "contract" shall include sub-contract;

(*iv*) "work" shall include—

(*a*) advertising;

(*b*) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(*c*) carriage of goods or passengers by any mode of transport other than by railways;

(*d*) catering;

(*e*) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer,

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.'.

61. In section 194-I of the Income-tax Act, for clauses (*a*), (*b*) and (*c*), the following clauses shall be substituted with effect from the 1st day of October, 2009, namely:—

"(*a*) two per cent. for the use of any machinery or plant or equipment; and

(*b*) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:".

62. In section 197A of the Income-tax Act, after sub-section (*1D*), the following sub-section shall be inserted, namely:—

"(*1E*) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (*44*) of section 10.".

63. In section 200 of the Income-tax Act, in sub-section (*3*), for the words, figures and letters ''prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year'', the words "prepare such statements for such period as may be prescribed" shall be substituted with effect from the 1st day of October, 2009.

64. After section 200 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

'200A.(*1*) Where a statement of tax deduction at source has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(*a*) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(*i*) any arithmetical error in the statement; or

(*ii*) an incorrect claim, apparent from any information in the statement;

(*b*) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(*c*) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of amount computed under clause (*b*) against any amount paid under section 200 and section 201, and any amount paid otherwise by way of tax or interest;

(*d*) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (*c*); and

(*e*) the amount of refund due to the deductor in pursuance of the determination under clause (*c*) shall be granted to the deductor:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, "an incorrect claim apparent from any information in the statement" shall mean a claim, on the basis of an entry, in the statement—

(*i*) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(*ii*) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act;

(*2*) For the purposes of processing of statements under sub-section (*1*), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.

65. In section 201 of the Income-tax Act,—

(*a*) in sub-section (*1A*), for the words "the quarterly statement for each quarter", the words "the statement" shall be substituted with effect from the 1st day of October, 2009;

(*b*) after sub-section (*2*), the following sub-sections shal be inserted with effect from the 1st day of April, 2010, namely:—

''(*3*) No order shall be made under sub-section (*1*) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of—

(*i*) two years from the end of the financial year in which the statement is filed in a case where the statement referred to in section 200 has been filed;

(*ii*) four years from the end of the financial year in which payment is made or credit is given, in any other case:

Provided that such order for a financial year commencing on or before the 1st day of April, 2007 may be passed at any time on or before the 31st day of March, 2011.

(*4*) The provisions of sub-clause (*ii*) of sub-section (*3*) of section 153 and of *Explanation* 1 to section 153 shall, so far as may, apply to the time limit prescribed in sub-section (*3*).''.

66. In section 203A of the Income-tax Act, in sub-section (*2*), in clause (*ba*), the word "quarterly'' shall be omitted with effect from the 1st day of October, 2009.

67. In section 206A of the Income-tax Act, with effect from the 1st day of October, 2009—

(*a*) in sub-section (*1*), for the words, figures and letters "quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year", the words "such statements for such period as may be prescribed" shall be substituted;

(*b*) in sub-section (*2*), for the words "quarterly returns", the words "such statements'' shall be substituted.

68. After section 206A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

"206AA. (*1*) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:—

(*i*) at the rate specified in the relevant provision of this Act; or

(*ii*) at the rate or rates in force; or

(*iii*) at the rate of twenty per cent.

(*2*) No declaration under sub-section (*1*) or sub-section (*1A*) or sub-section (*1C*) of section 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(*3*) In case any declaration becomes invalid under sub-section (*2*), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (*1*).

(*4*) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(*5*) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(*6*) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (*1*) shall apply accordingly.".

69. In section 206C of the Income-tax Act, in sub-section (*3*), in the proviso, for the words, figures and letters ''prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year", the words "prepare such statements for such period as may be prescribed" shall be substituted with effect from the 1st day of October, 2009.

70. In section 208 of the Income-tax Act, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted.

71. In section 246A of the Income-tax Act, in sub-section (*1*), in clause (*a*), for the words, brackets and figures "under sub-section (*3*) of section 143", the words, brackets and figures "under sub-section (*3*) of section 143 except an order passed in pursuance of directions of Dispute Resolution Panel" shall be substituted with effect from the 1st day of October, 2009.

72. In section 253 of the Income-tax Act, in sub-section (*1*), after clause (*c*), the following clause shall be inserted with effect from the 1st day of October, 2009, namely:—

"(*d*) an order passed by an Assessing Officer under sub-section (*3*) of section 143 in pur-

suance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order.".

73. In section 271 of the Income-tax Act, in sub-section (*1*), for *Explanation* 5A, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007, namely:—

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

(*i*) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income for any previous year; or

(*ii*) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of search and,—

(*a*) where the return of income for such previous year has been furnished before the said date but such income has not been declared therein; or

(*b*) the due date for filing the return of income for such previous year has expired but the assessee has not filed the return,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of search, he shall, for the purposes of imposition of a penalty under clause (*c*) of sub-section (*1*) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.".

74. In section 272A of the Income-tax Act, in sub-section (*2*), in clause (*l*), for the words "quarterly return", the word "statements'' shall be substituted with effect from the 1st day of October, 2009.

75. In section 281B of the Income-tax Act, in sub-section (*2*), after the second proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

"Provided also that the period during which the proceedings for assessment or reassessment are stayed by an order or injunction of any court shall be excluded from the period specified in the first proviso.".

76. For section 282 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:—

'282. (*1*) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,—

(*a*) by post or by such courier services as may be approved by the Board; or

(*b*) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or

(*c*) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000;

(*d*) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

(*2*) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (*1*) may be delivered or transmitted to the person therein named.

Explanation.—For the purposes of this section, the expressions "electronic mail" and "electronic mail message" shall have the meanings as assigned to them in *Explanation* to section 66A of the Information Technology Act, 2000.".

77. After section 282A of Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2010, namely:—

"282B. (*1*) Every income-tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

(*2*) Where the notice, order, letter or any correspondence, issued by any income-tax authority, does not bear a Document Identification Number referred to in sub-section (*1*), such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued.

(*3*) Every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number.

(*4*) Where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear the Document Identification Number referred to in sub-section (*3*), such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received.".

78. After section 293B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2009, namely :—

"293C. Where an income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, such authority may, notwithstanding that a provision to withdraw such approval has not been specifically provided for in such provision, withdraw such approval at any time:

Provided that the income-tax authority shall, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the assessee concerned, at any time, withdraw the approval after recording the reasons for doing so.".

79. In the First Schedule to the Income-tax Act, in rule 5,—

(*i*) for the portion beginning with the words "balance of the profits", and ending with the words "Controller of Insurance,", the following shall be substituted with effect from the 1st day of April, 2011, namely:—

"profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 or rules made thereunder or the provision of the Insurance Regulatory and Development Authority Act, 1999 or regulations made thereunder,";

(*ii*) after clause (*a*), the following clause shall be inserted with effect from the 1st day of April, 2011, namely:—

"(*b*) (*i*) deduction in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realisation of investments in accordance with the regulations made by Insurance Regulatory and Development Authority;

(*ii*) increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realisation of investments in accordance with the regulations made by Insurance Regulatory and Development Authority.".

80. In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (*1*), in the first proviso, for the figures, letters and words "31st day of March, 2009,", the figures, letters and words "31st day of December, 2010," shall be substituted.

81. In the Thirteenth Schedule to the Income-tax Act, under Part B, for S.No.19 and the entries relating thereto, the following S.No. and entries shall be substituted with effect from the 1st day of April, 2010, namely:—

S.No.	Activity or article or thing	Excise classification	Sub-class under National Industrial Classification (NIC), 1998
"19	Manufacture of pulp-wood pulp, mechanical or chemical (including dissolving pulp)	4701.00	
	Newsprint in rolls or sheets	4801.00	
	Writing or printing paper for printing of educational textbooks	4802.10	
	Paper or paperboard, in the manufacture of which—	4802.20	
(*a*)	the principal process of lifting the pulp is done by hand; and		
(*b*)	if power driven sheet forming equipment is used, the Cylinder Mould Vat does not exceeds 40 inches		
	Maplitho paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4802.30	
	Others	4802.90	
	Toilet or facial tissue stock, towel or napkin stock and	4803.00	
	similar paper of a kind used for household or sanitary purposes, cellulose wadding and webs of cellulose fibres, whether or not creped, crinkled embossed, perforated, surfact-coloured, surface decorated or printed, in rolls of a width exceeding 36 cms. or in rectangular (including square) sheets with at least one side exceeding 36 cms. in unfolded state.		
	Kraft paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4804.10	
	Kraft paper and paperboard used in the manufacture of cartons for packing of horticultural produce	4804.20	
	Others	4804.90	
	Other uncoated paper and paperboard, in roll or sheets,	4805.00	
	not further worked or processed than as specified in	Note 2 to this Chapter.	
	Grease-proof paper	4806.10	
	Glassine and other glazed transparent or translucent paper	4806.20	
	Others	4806.90	
	Straw Board, in the manufacture of which sun-drying process has been employed.	4807.91	
	Straw paper and other straw board, whether or not covered with paper other than straw paper.	4807.92	
	Other	4807.99	
	Carbon or similar copying papers	4809.10	
	Self-copy paper	4809.20	
	Others	4809.90	
	Paper and paperboard of a kind used for writing, printing or other graphic purposes.	4810.10	
	Kraft paper and paperboard other than that of a kind used for writing, printing or other graphic purposes.	4810.20	
	Other paper and paperboard	4810.90	
	Tarred, bituminized or asphalted paper and paperboard.	4811.10	
	Gummed or adhesive paper and paperboard	4811.20	
	-Paper and paperboard coated, impregnated or covered with plastic (excluding adhesives).		
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixtures thereof or chemical formulations containing melamine, phenol, urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates.	4811.31	
	Others	4811.39	
	Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol.	4811.40	
	Other	4811.90	
	Cigarette paper, whether or not cut to size or in the form of booklets or tubes	4813.00.".	

Wealth-tax

82. In section 3 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), after sub-section (*2*), the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

'Provided that in the case of every assessment year commencing on and from the 1st day of April, 2010, the provisions of this section shall have effect as if for the words "fifteen lakh rupees", the words "thirty lakh rupees" had been substituted.'.

83. In section 44A of the Wealth-tax Act, in the *Explanation,* for the words "any country", the words "any country outside India or any territory outside India" shall be substituted with effect from the 1st day of October, 2009.

CHAPTER IV

INDIRECT TAXES

Customs

84. After section 26 of the Customs Act, 1962 (hereinafter referred to as the Customs Act), the following section shall be inserted, namely:—

'26A. (*1*) Where on the importation of any goods capable of being easily identified as such imported goods, any duty has been paid on clearance of such goods for home consumption, such duty shall be refunded to the person by whom or on whose behalf it was paid, if—

(*a*) the goods are found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods:

Provided that the goods have not been worked, repaired or used after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;

(*b*) the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported;

(*c*) the importer does not claim drawback under any other provisions of this Act; and

(*d*) (*i*) the goods are exported; or

(*ii*) the importer relinquishes his title to the goods and abandons them to customs; or

(*iii*) such goods are destroyed or rendered commercially valueless in the presence of the proper officer,

in such manner as may be prescribed and within a period not exceeding thirty days from the date on which the proper officer makes an order for the clearance of imported goods for home consumption under section 47:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner of Customs for a period not exceeding three months:

Provided further that nothing contained in this section shall apply to the goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.

(*2*) An application for refund of duty shall be made before the expiry of six months from the relevant date in such form and in such manner as may be prescribed.

Explanation.— For the purposes of this sub-section, "relevant date" means,—

(*a*) in cases where the goods are exported out of India, the date on which the proper officer makes an order permitting clearance and loading of goods for exportation under section 51;

(*b*) in cases where the title to the goods is relinquished, the date of such relinquishment;

(*c*) in cases where the goods are destroyed or rendered commercially valueless, the date of such destruction or rendering of goods commercially valueless.

(*3*) No refund under sub-section (*1*) shall be allowed in respect of perishable goods and goods which have exceeded their shelf life or their recommended storage-before-use period.

(*4*) The Board may, by notification in the Official Gazette, specify any other condition subject to which the refund under sub-section (*1*) may be allowed.'.

85. In section 28F of the Customs Act, after sub-section (*2*), the following sub-sections shall be inserted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—

'(*2A*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), or any other law for the time being in force, the Central Government may, by notification in the Official Gazette, authorise an Authority constituted under section 245-O of the Income-tax Act, 1961, to act as an Authority under this Chapter.

(*2B*) On and from the date of publication of notification under sub-section (*2A*), the Authority constituted under sub-section (*1*) shall not exercise jurisdiction under this Chapter.

(*2C*) For the purposes of sub-section (*2A*), the reference to "an officer of the Indian Revenue Service who is qualified to be a Member of Central Board of Direct Taxes" in clause (*b*) of sub-section (*2*) of section 245-O of the Income-tax Act, 1961 shall be construed as reference to "an officer of the Indian Customs and Central Excise Service who is qualified to be a Member of the Board".

(*2D*) On and from the date of the authorisation of Authority under sub-section (*2A*), every application and proceeding pending before the Authority constituted under sub-section (*1*) shall stand transferred to the Authority so authorised from the stage at which such proceedings stood before the date of such authorisation.'.

86. In section 130 of the Customs Act, after sub-section (*2*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2003, namely:—

"(*2A*) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (*a*) of sub-section (*2*), if it is satisfied that there was sufficient cause for not filing the same within that period.".

87. In section 130A of the Customs Act, after sub-section (*3*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1999, namely:—

"(*3A*) The High Court may admit an application or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*1*) or sub-section (*3*), if it is satisfied that there was sufficient cause for not filing the same within that period.".

88. In section 137 of the Customs Act, in sub-section (*3*),—

(*i*) for the words "such compounding amount", the words "such compounding amount and in such manner of compounding" shall be substituted;

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

"Provided that nothing contained in this sub-section shall apply to-

(*a*) a person who has been allowed to compound once in respect of any offence under sections 135 and 135A;

(*b*) a person who has been accused of committing an offence under this Act which is also an offence under any of the following Acts, namely:—

(*i*) the Narcotic Drugs and Psychotropic Substances Act, 1985;

(*ii*) the Chemical Weapons Convention Act, 2000;

(*iii*) the Arms Act, 1959;

(*iv*) the Wild Life (Protection) Act, 1972;

(*c*) a person involved in smuggling of goods falling under any of the following, namely:—

(*i*) goods specified in the list of Special Chemicals, Organisms, Materials, Equipment and Technology in Appendix 3 to Schedule 2 (Export Policy) of ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992;

(*ii*) goods which are specified as prohibited items for import and export in the ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992;

(*iii*) any other goods or documents, which are likely to affect friendly relations with a foreign State or are derogatory to national honour;

(*d*) a person who has been allowed to compound once in respect of any offence under this Chapter for goods of value exceeding rupees one crore;

(*e*) a person who has been convicted under this Act on or after the 30th day of December, 2005.".

89. In section 156 of the Customs Act, in sub-section (*2*), in clause (*h*), for the words "for compounding", the words "for compounding and the manner of compounding" shall be substituted.

90. In section 157 of the Customs Act, in sub-section (2) after clause (a), the following clauses shall be inserted, namely:—

"(*ai*) the manner of export of goods, relinquishment of title to the goods and abandoning them to customs and destruction or rendering of goods commercially valueless in the presence of the proper officer under clause (*d*) of sub-section (*1*) of section 26A;

(*aii*) the form and manner of making application for refund of duty under sub-section (*2*) of section 26A;".

91. (*1*) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 27/2009-CUSTOMS (N.T.), published in the Official Gazette *vide* number G.S.R. 173(E), dated the 17th March, 2009, issued for the purpose of appointment of officers of customs under sub-section (*1*) of section 4 read with sub-section (*1*) of section 5 of the Customs Act, shall be deemed to be, and to have always been, for all purposes, in force retrospectively on and from the 9th day of May, 2000 and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done by officers of customs appointed by the said notification to discharge duties as an officer of customs on and from the 9th day of May, 2000 to the 16th day of March, 2009, shall, for all purposes, be deemed to be, and to have always been, validly taken or done as if the appointment so made with respect to the area of jurisdiction specified in the said notification was in force at all material times;

(*b*) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority against the Central Government or officers of customs appointed by the said notification for any action taken or anything done in good faith during the discharge of his duties as an officer of customs during the period on and from the 9th day of May, 2000 to the 16th day of March, 2009, as if the appointment made with respect to the area of jurisdiction specified in the said notification was in force at all material times;

(*c*) recovery made of any amount of duty or interest or penalty or fine or other charges by or under the order or direction of officers of customs appointed by the said notification during the period on and from the 9th day of May, 2000 to the 16th day of March, 2009 shall be deemed to be valid, and to have always been, for all purposes, as validly and effectively made as if the appointment made with respect to area of jurisdiction specified in the said notification was in force at all material times.

(*2*) For the purposes of sub-section (*1*), the Central Board of Excise and Customs shall have and shall be deemed to have always had the power to bring into force the said notification with retrospective effect as if the Central Board of Excise and Customs had the power to bring into force the said notification under sub-section (*1*) of section 4 read with sub-section (*1*) of section 5 of the Customs Act, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the said notification had not come into force retrospectively.

92. (*1*) The notification of the Government of India, in the Ministry of Finance (Department of Revenue) number G.S.R. 260(E), dated the 1st May, 2006, issued under sub-section (*1*) of section 25 of the Customs Act shall stand amended and shall be deemed to have been amended in the manner as specified in column (3) of the Second Schedule, on and from the corresponding date mentioned in column (4) of that Schedule 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 to have always 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*) 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 sub-section (*1*) of section 25 of the Customs Act, retrospectively, at all material times.

(*3*) Recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (*1*) had been in force at all material times from the day on which the Finance (No. 2) Bill, 2009 receives the assent of the President.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Customs tariff

93. In section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in sub-section (*2*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in the case of an article imported into India, where the Central Government has fixed a tariff value for the like article produced or manufactured in India under sub-section (*2*) of section 3 of the Central Excise Act, 1944, the value of the imported article shall be deemed to be such tariff value.".

94. In section 8B of the Customs Tariff Act, after sub-section (*4*), the following sub-section shall be inserted and shall be deemed to have been inserted on and from the 14th day of May, 1997, namely:—

"(*4A*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.".

95. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 14th day of May, 1997 and ending with the day, the Finance.

(No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 8B of the Customs Tariff Act by section 94 of Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*b*) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*c*) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

96. In section 8C of the Customs Tariff Act, after sub-section (*5*), the following sub-section shall be inserted and shall be deemed to have been inserted on and from the 11th day of May, 2002, namely:—

"(*5A*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.".

97. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 11th day of May, 2002 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 8C of the Customs Tariff Act by section 96 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*b*) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*c*) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

98. In section 9 of the Customs Tariff Act, for sub-section (*7A*), the following sub-section shall be substituted and shall be deemed to have been substituted on and from the 1st day of January, 1995, namely:—

"(*7A*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.".

99. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 1st day of January, 1995 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 9 of the Customs Tariff Act by section 98 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*b*) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall

be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*c*) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

100. In section 9A of the Customs Tariff Act,—

(*i*) in sub-section (*1*), for the words "any article is exported", the words "any article is exported by an exporter or producer" shall be substituted;

(*ii*) after sub-section (*6*), the following sub-section shall be inserted, namely:—

"(*6A*) The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (*6*) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer:

Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available.";

(*iii*) for sub-section (*8*), the following sub-section shall be substituted and shall always be deemed to have been substituted on and from the 1st day of January, 1995, namely:—

"(*8*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.".

101. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 1st day of January, 1995 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 9A of the Customs Tariff Act by clause (*iii*) of section 100 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*b*) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(*c*) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

102. The First Schedule to the Customs Tariff Act shall be amended in the manner as specified in the Third Schedule.

Excise

103. In section 9A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in sub-section (*2*),—

(*i*) for the words "such compounding amount", the words "such compounding amount and in such manner of compounding" shall be substituted;

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

"Provided that nothing contained in this sub-section shall apply to—

(*a*) a person who has been allowed to compound once in respect of any of the offences under the provisions of clause (*a*), (*b*), (*bb*), (*bbb*), (*bbbb*) or (*c*) of sub-section (*1*) of section 9;

(*b*) a person who has been accused of committing an offence under this Act which is also an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985;

(*c*) a person who has been allowed to compound once in respect of any offence under this Chapter for goods of value exceeding rupees one crore;

(*d*) a person who has been convicted by the court under this Act on or after the 30th day of December, 2005.".

104. In section 14A of the Central Excise Act,—

(*i*) in sub-sections (*1*) and (*2*), for the words "cost accountant,", the words "cost accountant or chartered accountant" shall be substituted;

(*ii*) the *Explanation* shall be renumbered as *Explanation* 1 thereof, and after *Explanation* 1 as so renumbered, the following *Explanation* shall be inserted, namely:—

'*Explanation* 2.—For the purposes of this section, "chartered accountant" shall have the meaning assigned to it in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949.'.

105. In section 14AA of the Central Excise Act,—

(*i*) in sub-sections (*1*) and (*2*), for the words "cost accountant", the words "cost accountant or chartered accountant" shall be substituted;

(*ii*) the *Explanation* shall be renumbered as *Explanation* 1 thereof, and after *Explanation* 1 as so renumbered, the following *Explanation* shall be inserted, namely:—

'*Explanation* 2.—For the purposes of this section, "chartered accountant" shall have the meaning assigned to it in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949.'.

106. In section 23A of the Central Excise Act, for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "Authority" means the Authority for Advance Rulings, constituted under sub-section (*1*), or authorised by the Central Government under sub-section (*2A*), of section 28F of the Customs Act, 1962.'.

107. In section 35G of the Central Excise Act, after sub-section (*2*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2003, namely:—

"(*2A*) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (*a*) of sub-section (*2*), if it is satisfied that there was sufficient cause for not filing the same within that period.".

108. In section 35H of the Central Excise Act, after sub-section (*3*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1999, namely:—

"(*3A*) The High Court may admit an application or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*1*) or sub-section (*3*), if it is satisfied that there was sufficient cause for not filing the same within that period.".

109. In section 37 of the Central Excise Act, in sub-section (2), in clause (*id*), for the words ''for compounding'', the words ''for compounding and the manner of compounding'' shall be substituted.

110. (*1*) The notifications of the Government of India, in the Ministry of Finance (Department of Revenue) numbers G.S.R. 448(E), dated the 1st August, 1997, G.S.R. 503(E), dated the 30th August, 1997 and G.S.R. 130(E), dated the 10th March, 1998, issued under section 37 of the Central Excise Act, shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified against each of them in column (3) of the Fourth Schedule, on and from the corresponding date mentioned in column (4) of that Schedule 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 notifications, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(*2*) Notwithstanding the omission of section 3A of the Central Excise Act by section 121 of the Finance Act, 2001 and the expiration of the notifications referred to in sub-section (*1*), for the purposes of sub-section (*1*), the Central Government shall have and shall be deemed to have the power to make rules and issue or amend notifications under section 3A read with section 37 of the Central Excise Act, retrospectively at all material times.

(*3*) Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under the notifications referred to in sub-section (*1*) at any time during the period commencing on or from the 1st day of August, 1997 and ending with the day, the Finance.

(No. 2) Bill, 2009 receives the assent of the President, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendments made by sub-section (*1*) had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done or omitted to be done, during the said period in respect of any goods under the said notifications, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendments made by sub-section (*1*) had been in force at all material times;

(*b*) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made by sub-section (*1*) had been in force at all material times;

(*c*) recovery shall be made of such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendments made by sub-section (*1*) had been in force at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Excise tariff

111. The First Schedule to the Central Excise Tariff Act, 1985 shall be amended in the manner as specified in the Fifth Schedule.

CHAPTER V
SERVICE TAX

112. In the Finance Act, 1994,—

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

(*1*) in clause (*19*),—

(*a*) for the portion beginning with the words "but does not include" and ending with the words and figures "Central Excise Act, 1944", the words "but does not include any activity that amounts to manufacture of excisable goods" shall be substituted;

(*b*) in the *Explanation*, after clause (*a*), the following clauses shall be inserted, namely:—

'(*b*) "excisable goods" has the meaning assigned to it in clause (*d*) of section 2 of the Central Excise Act, 1944;

(*c*) "manufacture" has the meaning assigned to it in clause (*f*) of section 2 of the Central Excise Act, 1944;';

(*2*) in clause (*101*), the words "or sub-broker, as the case may be," shall be omitted.

(*3*) in clause (*105*),—

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RAILWAYS: Rolling along. Nearly 7,000 stations string together a rail network of over 60,000 km traversing the length and breadth of the country. But a below-average record in cleanliness, safety and basic amenities leaves much to be desired.

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

"(*zzzp*) to any person, by any other person, in relation to transport of goods by rail, in any manner;";

(*b*) in sub-clause (*zzzze*), in items (*v*) and (*vi*), for the word "acquiring", the word "providing" shall be substituted and shall be deemed to have been substituted with effect from the 16th day of May, 2008;

(*c*) after sub-clause (*zzzzj*), the following sub-clauses shall be inserted, namely:—

'(*zzzzk*) to any person, by any other person, in relation to cosmetic surgery or plastic surgery, but does not include any surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma;

(*zzzzl*) to any person, by any other person, in relation to transport of —

(*i*) coastal goods;

(*ii*) goods through national waterway; or

(*iii*) goods through inland water.

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

(*a*) "coastal goods" has the meaning assigned to it in clause (*7*) of section 2 of the Customs Act, 1962;

(*b*) "national waterway" has the meaning assigned to it in clause (*h*) of section 2 of the Inland Waterways Authority of India Act, 1985;

(*c*) "inland water" has the meaning assigned to it in clause (*b*) of section 2 of the Inland Vessels Act, 1917;

(*zzzzm*) to a business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner:

Provided that any service provided by way of appearance before any court, tribunal or authority shall not amount to taxable service.

Explanation.—For the purposes of this sub-clause, "business entity" includes an association of persons, body of individuals, company or firm, but does not include an individual;';

(*B*) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the word, brackets and letters "and (*zzzzj*)", the brackets, letters and word ", (zzzzj), (*zzzzk*), (*zzzzl*) and (*zzzzm*)" shall be substituted;

(*C*) for section 84, the following section shall be substituted, namely:—

"84. (*1*) The Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceedings in which an adjudicating authority subordinate to him has passed any decision or order under this Chapter for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner of Central Excise (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Commissioner of Central Excise in his order.

(*2*) Every order under sub-section (*1*) shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.

(*3*) Where in pursuance of an order under sub-section (*1*), the adjudicating authority or any other officer authorised in this behalf makes an application to the Commissioner of Central Excise (Appeals) within a period of one month from the date of communication of the order under sub-section (*1*) to the adjudicating authority, such application shall be heard by the Commissioner of Central Excise (Appeals), as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Chapter regarding appeals shall apply to such application.

Explanation.—For the removal of doubts, it is hereby declared that any order passed by an adjudicating officer subordinate to the Commissioner of Central Excise immediately before the commencement of clause (*C*) of section 112 of the Finance (No. 2) Act, 2009, shall continue to be dealt with by the Commissioner of Central Excise as if this section had not been substituted.";

(*D*) in section 86, in sub-sections (*1*) and (*2*), the words and figures "or section 84" shall be omitted;

(*E*) in section 94, in sub-section (*2*), after clause (*hh*), the following clause shall be inserted, namely:—

"(*hhh*) the date for determination of rate of service tax and the place of provision of taxable service;";

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

"(*1F*) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance (No.2) Act, 2009, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance (No. 2) Bill, 2009 receives the assent of the President.";

(*G*) Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under items (*v*) and (*vi*) of sub-clause (*zzzze*) of clause (*105*) of section 65 at any time during the period commencing on and from the 16th day of May, 2008 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President, shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made by item (*b*) of sub-clause (*3*) of clause (*A*) of section 112 of the Finance (No. 2) Act, 2009 had been in force at all material times and, accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority,—

(*a*) any action taken or anything done or omitted to be done for the imposition of service tax during the said period for providing the right to use information technology software for commercial exploitation and also for providing the right to use information technology software supplied electronically, shall be deemed to be, and shall be deemed to always have been, as validly taken or done or omitted to be done as if the said amendment had been in force at all material times;

(*b*) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the imposition of such service tax and no enforcement shall be made by any court of any decree or order relating to such action taken or anything done or omitted to be done as if the said amendment had been in force at all material times;

(*c*) recovery shall be made of all such amounts of service tax, interest or penalty or fine or other charges which may not have been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, as if the said amendment had been in force at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

(*H*) (*1*) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 10(E), dated the 5th January, 2009, issued in exercise of the powers conferred by sub-section (*1*) of section 93 of the Finance Act, 1994, granting exemption from the whole of service tax leviable under section 66 to any person providing specified taxable services to goods transport agency, shall be deemed to have, and to always have, for all purposes, validly come into force on and from the 1st day of January, 2005 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 notification referred to in sub-section (*1*) had been in force at all material times.

(*3*) Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance (No. 2) Bill, 2009 receives the assent of the President.

Explanation.— For the removal of doubts, it is hereby declared that the provisions of section 11B of the Central Excise Act, 1944, shall be applicable in case of refunds under this section.

(*I*) in section 96A, for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "Authority" means the Authority for Advance Rulings, constituted under sub-section (*1*), or authorised by the Central Government under sub-section (*2A*), of section 28F of the Customs Act, 1962.'.

CHAPTER VI
MISCELLANEOUS

113. In the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, in section 13, in sub-section (*1*), for the words, figures and letters "the 31st day of March, 2009", the words, figures and letters "the 31st day of March, 2014" shall be substituted.

114. In Chapter VII of the Finance (No. 2) Act, 2004, after section 113, the following section shall be inserted with effect from the 1st day of October, 2009, namely:—

"113A. Notwithstanding anything contained in this Chapter, the provisions of this Chapter shall not apply to taxable securities transactions entered into by any person for, or on behalf of, the New Pension System Trust referred to in clause (*44*) of section 10 of the Income-tax Act, 1961.".

115. After section 121 of the Finance Act, 2008, the following section shall be inserted, namely:— "121A. Nothing contained in this Chapter shall apply to, or in relation to, the taxable commodities transaction entered on or after the 1st day of April, 2009.".

116. The Finance Act, 2009 is hereby repealed and shall be deemed never to have been enacted.

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 clause 111 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931.

THE FIRST SCHEDULE
(*See* section 2)
PART I
INCOME-TAX
Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (*II*) and (*III*) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,50,000	*Nil;*
(2) where the total income exceeds Rs.1,50,000 but does not exceed Rs. 3,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,50,000;
(3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	Rs. 15,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(4) where the total income exceeds Rs. 5,00,000	Rs. 55,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

(*II*) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,80,000	*Nil;*
(2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 3,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,80,000;
(3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	Rs. 12,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(4) where the total income exceeds Rs. 5,00,000	Rs. 52,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 2,25,000	*Nil;*
(2) where the total income exceeds Rs. 2,25,000 but does not exceed Rs. 3,00,000	10 per cent. of the amount by which the

total income exceeds Rs. 2,25,000;

(3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 — Rs. 7,500 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;

(4) where the total income exceeds Rs. 5,00,000 — Rs. 47,500 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every person, other than those mentioned in item (*i*), be increased by a surcharge, for purposes of the Union, calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs.10,000 — 10 per cent. of the total income;

(2) where the total income exceeds Rs.10,000 but does by not exceed Rs. 20,000 — Rs.1,000 *plus* 20 per cent. of the amount which the total income exceeds Rs.10,000;

(3) where the total income exceeds Rs. 20,000 — Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income — 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income — 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company — 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent.;

(*ii*) on the balance, if any, of the total income — 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(*i*) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

Rate of income-tax

1. In the case of a person other than a company—

(*a*) where the person is resident in India—

(*i*) on income by way of interest other than "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 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;

(*C*) any security of the Central or State Government

(*vi*) on any other income — 10 per cent.;

(*b*) where the person is not resident in India—

(*i*) in the case of a non-resident Indian—

(*A*) on any investment income — 20 per cent.;

(*B*) on income by way of long-term capital gains referred to in section 115E — 10 per cent.;

(*C*) on income by way of short-term capital gains referred to in section 111A — 15 per cent.;

(*D*) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10] — 20 per cent.;

(*E*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency — 20 per cent.;

(*F*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India—

(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*II*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*G*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*i*)(*F*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*II*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*H*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*II*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*I*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(*J*) on income by way of winnings from horse races — 30 per cent.;

(*K*) on the whole of the other income — 30 per cent.;

(*ii*) in the case of any other person—

(*A*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency — 20 per cent.;

(*B*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India—

(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*II*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*C*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*ii*)(*B*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*II*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*D*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*I*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*II*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*E*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(*F*) on income by way of winnings from horse races — 30 per cent.;

(*G*) on income by way of short-term capital gains referred to in section 111A — 15 per cent.;

(*H*) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10] — 20 per cent.;

(*I*) on the whole of the other income — 30 per cent.;

2. In the case of a company—

(*a*) where the company is a domestic company—

(*i*) on income by way of interest other than "Interest on securities" — 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 any other income — 10 per cent.;

(*b*) where the company is not a domestic company—

(*i*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(*ii*) on income by way of winnings from horse races — 30 per cent.;

(*iii*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency — 20 per cent.;

(*iv*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India—

(*A*) where the agreement is made before the 1st day of June, 1997 — 30 per cent.;

(*B*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*C*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*v*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*iv*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 — 50 per cent.;

(*B*) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 — 30 per cent.;

(*C*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*D*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*vi*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 — 50 per cent.;

(*B*) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 — 30 per cent.;

(*C*) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 — 20 per cent.;

(*D*) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(*vii*) on income by way of short-term capital gains referred to in section 111A — 15 per cent.;

(*viii*) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10] — 20 per cent.;

(*ix*) on any other income — 40 per cent.;

Explanation.—For the purpose of item 1(*b*)(*i*) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of item 2(*b*) of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (*4*) of section 172 of the Income-tax Act or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (*II*) and (*III*) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,60,000 *Nil;* (2) where the total income exceeds Rs.1,60,000 but does not exceed Rs. 3,00,000 10 per cent. of the amount by which the total income exceeds Rs. 1,60,000; (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 Rs. 14,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; (4) where the total income exceeds Rs. 5,00,000 Rs. 54,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. (*II*) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,90,000 *Nil;* (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 3,00,000 10 per cent. of the amount by which the total income exceeds Rs. 1,90,000; (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 Rs. 11,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; (4) where the total income exceeds Rs. 5,00,000 Rs. 51,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. (*III*) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, —

Rates of income-tax

(1) where the total income does not exceed Rs. 2,40,000 *Nil;* (2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 3,00,000 10 per cent. of the amount by which the total income exceeds Rs. 2,40,000; (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 Rs. 6,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; (4) where the total income exceeds Rs. 5,00,000 Rs. 46,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.

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 *plus* 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 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income — 30 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income — 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company — 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved 50 per cent.; by the Central Government

(*ii*) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(*i*) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART IV

[*See* section 2(*12*)(*c*)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1A*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (*3*) and (*4*) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(*a*) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(*b*) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, remilled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(*c*) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2009, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008, 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, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, 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, 2008,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

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, 2009.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2010, 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, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009, is a loss, then, for the purposes of sub-section (*10*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, 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, 2008 or the 1st day of April, 2009,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, 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, 2009,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

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, 2010.

(*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, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) 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.

THE SECOND SCHEDULE
(*See* section 92)

Sl. No.	Notification number and date	Amendment	Date of
	G.S.R. 260(E), dated the 1st May, 2006, 40/2006-Customs dated the 1st May, 2006.	In the said notification, in the opening paragraph,—	
		(*i*) after condition (*iii*), the following condition shall be inserted, namely:— "(*iiia*) that in respect of imports made after the discharge of export obligation in full, if facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (*2*) of rule 19 of the Central Excise Rules, 2002 or CENVAT Credit under CENVAT Credit Rules, 2004 has been availed, then the importer shall use the imported materials for the manufacture of dutiable goods in his factory or in the factory of his supporting manufacturer and shall submit a certificate from the jurisdictional Central Excise Officer that the imported materials have been so used: Provided that, in case,— (*a*) materials are imported against an authorisation transferred by the Regional Authority, or (*b*) the imported materials are transferred with the permission of Regional Authority, then the importer shall pay an amount equal to the additional duty of customs leviable on the materials so imported or transferred, but for the exemption contained herein, together with interest at the rate of fifteen per cent. per annum from the date of clearance of the said materials: 19th February, 2009 Provided further that no such amount shall be payable in respect of authorisation issued from the 1st day of May, 2006 to the 31st day of March, 2007."; (*ii*) in condition (*iiia*), after the second proviso, the following proviso shall be inserted, namely: – "Provided also that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and the additional duty of customs so paid shall be eligible for availing CENVAT Credit under the CENVAT Credit Rules, 2004."; (*iii*) for condition (*v*), the following condition shall be substituted, namely:— "(*v*) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorisation: Ist May, 2006 to 18th February 2009 Provided that an Advance Intermediate authorisation holder shall discharge export obligation by supplying the resultant products to the exporter in terms of paragraph 4.1.3 (*ii*) of the Foreign Trade Policy."; (*iv*) in the *Explanation*, after clause (*iv*), the following clause shall be inserted, namely:- '(*v*) "dutiable goods" means excisable goods which are not exempt from central excise duty and which are not chargeable to 'nil' rate of central excise duty.'. Ist May, 2006 to 18th February, 2009	

THE THIRD SCHEDULE
(*See* section 102)

In the First Schedule to the Customs Tariff Act, in SECTION XI, in Note 2, for para (*A*), the following shall be substituted, namely: –

"(*A*) Goods classifiable in Chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.

When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.".

THE FOURTH SCHEDULE
(*See* section 110)

1. (Notification No & date) G.S.R. 448(E), dated the 1st August, 1997 [33/1997-Central Excise (N.T.), dated the 1st August, 1997]. (Amendment) In the said notification, in the preamble, for the words and figures "powers conferred by section 37", the words, figures and letter "powers conferred by section 3A read with section 37" shall be substituted. 1st August, 1997. 2. (Notification No & date) G.S.R. 503(E), dated the 30th August, 1997 [44/1997-Central Excise (N.T.), dated the 30th August, 1997]. (Amendment) In the said notification, in the preamble, for the words and figures "powers conferred by section 37", the words, figures and letter "powers conferred by section 3A read with section 37" shall be substituted. 30th August, 1997.

3. (Notification No & date) G.S.R. 130(E), dated the 10th March, 1998 [7/1998-Central Excise (N.T.), dated the 10th March, 1998]. (Amendment) In the said notification, in the preamble, for the words and figures "powers conferred by section 37", the words, figures and letter "powers conferred by section 3A read with section 37" shall be substituted. 10th March, 1998.

THE FIFTH SCHEDULE
(*See* section 111)

In the First Schedule to the Central Excise Tariff Act,—

(*1*) in Chapter 8, for NOTE 1, the following NOTE shall be substituted, namely:—

'1. This Chapter does not cover :

(*a*) inedible nuts or fruits; or

(*b*) betel nut product known as "Supari" of tariff item 2106 90 30.';

(*2*) in Chapter 21, after NOTE 5, the following NOTE shall be inserted, namely,—

'6. In relation to product of tariff item 2106 90 30, the process of adding or mixing cardamom , copra, menthol, spices, sweetening agents or any such ingredients other than lime, *katha* (catechu) or tobacco to betel nut, in any form, shall amount to "manufacture".'.

(*3*) In Chapter 58, against tariff item 5801 22 10, –

(*i*) in column (3), the entry "m^2" shall be inserted;

(*ii*) in column (4), the entry "8%" shall be inserted.

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 2009-2010. The notes on clauses explain the various provisions contained in the Bill.

PRANAB MUKHERJEE.

NEW DELHI;
***The* 6th July, 2009.**

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

[Copy of letter No. 2(31)-B(D)/2009, dated the 6th July, 2009 from Shri Pranab Mukherjee, Minister of Finance, to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Finance (No. 2) Bill, 2009 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 6th July, 2009.

On clauses

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2009-2010. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2009-2010 from income subject to such deductions under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from, or paid on, income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2009-2010.

Rates of income-tax for the assessment year 2009-2010

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2009-2010. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2008, for the purposes of deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2008-2009.

Rates of deduction of tax at source during the financial year 2009-2010 *from income other than "Salaries"*

Part II of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source during the financial year 2009-2010 from income other than "Salaries". The rates are the same for persons not resident in India, as those specified in Part II of the First Schedule to the Finance Act, 2008, for the purposes of deduction of income-tax at source during the financial year 2008-2009. However, for the resident taxpayers, the number of rates have been reduced with the objective of rationalising the scheme of tax deducted at source.

The amount of tax so deducted shall be increased by a surcharge at the rate of two and one-half per cent. in the case of a company other than a domestic company. In all other cases, no surcharge would be levied on the tax deducted at source.

Rates for deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2009-2010

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source from, or paid on, income under the head "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in special cases for the financial year 2009-2010.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every 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 Part III applies. In such cases, the income-tax exemption limit is proposed to be raised to Rs.1,60,000. The new rates of income-tax on total income in such cases are proposed to be as under–

Up to Rs. 1,60,000	*Nil*
Rs. 1,60,001 to 3,00,000	10 per cent.
Rs. 3,00,001 to 5,00,000	20 per cent.
Above Rs. 5,00,000	30 per cent.

In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year, the exemption limit is proposed to be raised to Rs.1,90,000. The new rates of income-tax on total income in such cases are proposed to be as under–

Up to Rs. 1,90,000	*Nil*
Rs. 1,90,001 to 3,00,000	10 per cent.
Rs. 3,00,001 to 5,00,000	20 per cent.
Above Rs. 5,00,000	30 per cent.

In the case of every individual, being a resident of India, who is of the age of sixty-five years or more at any time during the previous year, the exemption limit is proposed to be raised to Rs.2,40,000. The new rates of income-tax on total income in such cases are proposed to be as under–

Up to Rs. 2,40,000	*Nil*
Rs. 2,40,001 to 3,00,000	10 per cent.
Rs. 3,00,001 to 5,00,000	20 per cent.
Above Rs. 5,00,000	30 per cent.

No surcharge shall now be levied in the case of persons covered in Paragraph A of Part III of First Schedule.

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2009-2010. No surcharge will be levied.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2009-2010. No surcharge shall now be levied in the case of a firm.

Paragraph D of this Part specifies the rate of income-tax in the case of every local authority. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 2009-2010. No surcharge will be levied.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In the case of companies, the rate of tax will continue to be the same as that specified for assessment year 2009-2010. Surcharge shall continue to be levied in case of a company at the same rate and subject to the same conditions as were applicable for the assessment year 2009-2010.

"Education Cess" at the rate of two per cent. and "Secondary and Higher Education cess" at the rate of one per cent. shall continue to be levied in all cases covered under Part III of the First Schedule. In the cases covered under Part-II of the First Schedule, the Education Cess and Secondary and Higher Education Cess will not be levied on tax deducted or collected at source in the case of a domestic company and any other person who is resident in India. Both the cesses would continue to apply on tax deducted at source in the case of salary payments.

Clause 3 of the Bill seeks to amend section 2 of Income-tax Act relating to definitions.

Clause (15) of the said section of the Income-tax Act defines the expression "charitable purpose" as relief of the poor, education, medical relief and the advancement of any other object of general public utility provided that the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application or retention, of the income from such activity.

It is proposed to amend section 2(15) so as to include preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest along with relief of the poor, education and medical relief in the definition of "charitable purpose" under section 2(15) so that the proviso to the said section shall also not apply to these activities.

It is proposed to make the above amendment applicable with retrospective effect from 1st April, 2009 and will, accordingly, apply in relation to assessment year 2009-2010 and subsequent years.

It is proposed to insert a new clause (22AAA) in the said section to define an "electoral trust" to mean a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.

This amendment will take effect with effect from the 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Under the existing provisions contained in clause (23) of the said section, the expressions "firm", "partner" and "partnership" derives their meaning from the Indian Partnership Act, 1932 but the expression "partner" also includes any person who, being a minor, has been admitted to the benefits of partnership. It is proposed to substitute clause (23) of said section so as to define the words "firm", "partner" and "partnership" in the context of an entity registered under the Limited Liability Partnership Act, 2008 and also to retain the definitions of "firm", "partner" and "partnership" in the context of a partnership formed under the Indian Partnership Act, 1932.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Sub-clause (iia) of clause (24) of the said section provides that voluntary contributions received by a trust or institution or association or university or educational institutions or any hospital or other institutions referred therein will be regarded as income. It is proposed to amend sub-clause (iia) of clause (24) of the said section so as to include therein the voluntary contribution received by electoral trusts within the definition of income. The proposed amendment is consequential in nature.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

It is proposed to insert a new clause (29BA) to the said section so as to define the expression "manufacture". The term "manufacture" with its gramatical variations would mean a change in a non-living physical object or article or thing resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use, or bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

This amendment will take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to the assessment year 2009-2010 and subsequent years.

Clause (48) of the said section defines the expression "zero coupon bond" as a bond issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after the 1st day of June, 2005, in respect of which no payment and benefit is received or receivable before maturity or redemption from such company or fund or public sector company and which the Central Government may, by notification in the Official Gazette, specify. The proposed amendment seeks to include "scheduled bank" in the said clause (48). It is also proposed to insert an Explanation in the said clause so as to define the expression "scheduled bank" as having the meaning assigned to it in clause (ii) of Explanation to sub-clause (c) of clause (viia) of sub-section (1) of section 36.

This amendment will take effect retrospectively from1st April, 2009.

Clause 4 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.It is proposed to insert a new proviso to clause (10C) of the said section so as to provide that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year.

This amendment will take effect from 1st April, 2010, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

The fourteenth proviso to clause (23C) of said section provides that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after 1st June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be made at any time during the financial year immediately preceding the assessment year from which the exemption is sought. It is proposed to amend the said proviso so as to allow the filing of the application on or before the 30th September of the relevant assessment year.

This amendment will take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to the assessment year 2009-2010 and subsequent years.

Clause (a) of *Explanation* to clause (23D) of the said section provides for exemption of the income of Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India. The *Explanation* to said clause (23D), *inter alia*, defines the expression "public sector bank" to mean the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980). It is proposed to amend the said clause so as to provide that a bank included in the category 'other public sector banks' by the Reserve Bank of India would also be covered under the scope of clause (23D).

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

It is also proposed to insert a new clause (44) in the said section so as to provide that any income received by any person for, or on behalf of, the New Pension System Trust established on 27th day of February, 2008 under the provisions of the Indian Trust Act, 1882 will also not be included in total income of such trust.

This amendment will take effect retrospectively from the 1st April, 2009 and accordingly apply in relation to assessment year 2009-2010 and subsequent assessment years.

Clause 5 of the Bill seeks to amend section 10A of the Income-tax Act relating to special provision in respect of newly established industrial undertakings in free trade zone, etc.

The existing provisions provide that no deduction shall be allowed to any undertaking for the assessment year beginning on 1st day of April, 2011 and subsequent years.

It is proposed to amend the fourth proviso to sub-section (1) of the said section so as to allow the deduction for the previous year 2010-2011 relevant to assessment year 2011-2012.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 6 of the Bill seeks to amend section 10AA of the Income-tax Act relating to special provision in respect of newly established Units in Special Economic Zones.

Under the existing provisions contained in sub-section (7) of said section, the profits derived from the export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee.

It is proposed to amend the said sub-section so as to substitute the reference to "assessee" by the word "undertaking". After the proposed amendment deduction under aforesaid section shall be computed with reference to the total turnover of the undertaking.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-2011 and subsequent years.

Clause 7 of the Bill seeks to amend section 10B of the Income-tax Act relating to special provisions in respect of newly established hundred per cent. export oriented undertakings.

The existing provisions provides that no deduction shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2011 and subsequent years.

It is proposed to amend the third proviso to sub-section (1) of the said section so as to allow the deduction for the previous year 2010-2011 relevant to assessment year 2011-2012.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 8 of the Bill seeks to insert new section 13B relating to voluntary contributions received by electoral trusts. The proposed new section provides that any voluntary contribution received by an electoral trusts shall not be included in the total income of the previous year of such electoral trusts if (a) such electoral trust distributes to any political party registered under section 29 of the Representation of the People Act, 1951 (43 of 1951) during the said previous year ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and (b) such electoral trust functions in accordance with the rules made in this regard by the Central Government.

This amendment will take effect from1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 9 of the Bill seeks to amend section 17 of the Income-tax Act, which relates to definitions of "salary", "perquisite" and "profits in lieu of salary".

The existing provisions contained in sub-clause (vi) of clause (2) of the said section provide that perquisite include the value of any other fringe benefit or amenity which may be prescribed, excluding those fringe benefits which are chargeable to tax under Chapter XII-H.

It is proposed to substitute the said sub-clause so as, *inter alia*, to provide that perquisite include the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

It is also proposed to insert sub-clause (vii) to the said clause (2) so as to provide that perquisite include the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees.

It is also proposed to insert sub-clause (viii) so as to provide that perquisite include the value of any other fringe benefit or amenity as may be prescribed.

These amendments will take effect from the 1st April, 2010 and will, accordingly, apply to the assessment year 2010-11 and subsequent assessment years.

Clause 10 of the Bill seeks to amend section 28 of the Income-tax Act relating to profits and gains of business or profession.

The existing provisions provide that incomes specified in the said section shall be chargeable to income-tax under the head "Profits and gains of business or profession".

It is proposed to insert a new clause (vii) in the said section to provide that any sum, whether received or receivable, in cash or kind, by reason of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, shall be chargeable to income-tax under the head "Profit and gains of business or profession, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD which contains provisions relating to deduction in respect of expenditure on specified busines and proposed to be inserted as a new section in the Income-tax Act, 1961.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years. The proposed amendment is consequential in nature.

Clause 11 of the Bill seeks to amend section 32 of the Income-tax Act, relating to depreciation.

It is proposed to amend *Explanation 3* to sub-section (1) of section 32 of the Income-tax Act which defines "assets" and "block of assets" for the purpose of depreciation under sub-section (1) of section 32.

It is proposed to omit reference to "block of assets" from *Explanation 3* to sub-section (1) of section 32. Consequent to proposed amendments, the expression "block of assets" shall have the same meaning as assigned to it in clause (11) of section 2 of the said Act.

This amendment will take effect from the 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 12 of the Bill seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

The existing provision contained in sub-section (2AB) of section 35 provides for deduction of a sum equal to one and one half times of the expenditure so incurred to a company engaged in the business of biotechnology or in the business of manufacture or production of drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board and which has incurred expenditure (except land and building) on in-house scientific research and development facility approved by the prescribed authority.

It is proposed to extend the benefit of the said deduction to all businesses engaged in the manufacturing or production of article or thing except those specified in the Eleventh Schedule.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 13 of the Bill seeks to insert a new section 35AD in the Income-tax Act which relates to deduction in respect of Expenditure on specified business.

The proposed amendment provides for allowing any expenditure of capital nature incurred, wholly and exclusively, during the year for specified business. The specified business has been defined to mean the business of setting up and operating of cold chain facilities for storage or transportation of agricultural produce, dairy products and other related items. It would also include the business of warehousing for storing agricultural produce and the business of laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

The proposed section would, *inter alia*, allow one hundred per cent. deduction in respect of any capital expenditure incurred, other than expenditure incurred on the acquisition of any land or goodwill or financial instrument, during the year by the specified business sub-

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IT: Not that wide a net. With a PC penetration of just 2.8 per cent and only 6 million out of a billion citizens surfing the internet at broadband speeds, India has a long way to go to truly log on to the information superhighway.

ject to the provisions contained in that section.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in respect of assessment year 2010-2011 and subsequent assessment years.

Clause 14 of the Bill seeks to amend section 36 of the Income-tax Act which relates to other deductions.

The existing provisions contained in clause (i) of the Explanation to clause (iiia) of sub-section (1) of the said section provides for the definition of the expression "discount" as the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company issuing the bond and the amount payable by such company or fund or public sector company on maturity or redemption of such bond.

It is proposed to amend the said clause so as to include "scheduled bank" after public sector company. The proposed amendment is consequential in nature.

This amendment will take effect retrospectively from 1st April, 2009.

Clause (viii) of the said sub-section relates to deduction in respect of any special reserve created and maintained by eligible entities carrying out eligible businesses for an amount not exceeding twenty per cent. of profits derived from eligible business activities, carried to such reserve.

The *Explanation* to clause (viii) of said sub-section (1) defines the expressions 'specified entity' and 'eligible business' for the purposes of availing deductions under the aforesaid section. Under sub-clause (i) of clause (b) to the said *Explanation*, it is proposed to substitute the words "housing development" in place of the words "construction or purchases of houses in India for residential purpose".

This amendment will take effect from 1st April, 2010, and will, accordingly apply in relation to the assessment year 2010-2011 and subsequent years.

Clause (xvi) in sub-section (1) of the said section provides that any amount of commodities transaction tax paid by the assessee during the previous year in respect of taxable commodities transactions entered into in the course of his business during the previous year shall be allowed as a deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession.

It is proposed to omit the said clause (xvi) retrospectively with effect from 1st April, 2009.

Clause 15 of the Bill seeks to amend sub-clause (v) of clause (b) of section 40 of the Income-tax Act, relating to amounts not deductible.

The existing sub-clause (v) of the said clause, *inter-alia,* provides that in case of working partners, payments of salary, bonus, commission or remuneration, by whatever name called, will be allowed as a deduction subject to the following limits, namely: -(1) In case of a firm carrying on a profession referred to in section 44AA or which is notified for the purposes of that section –

(a) on the first Rs.1,00,000 of the book-profit or in case of a loss — Rs. 50,000 or at the rate of 90 per cent. of the book-profit, whichever is more;

(b) on the next Rs.1,00,000 of the book-profit — at the rate of 60 per cent.;

(c) on the balance of the book-profit — at the rate of 40 per cent.;

(2) in the case of any other firm –

(a) on the first Rs.75,000 of the book-profit, or in case of a loss — Rs. 50,000 or at the rate of 90 per cent of the book-profit, whichever is more;

(b) on the next Rs.75,000 of the book-profit — at the rate of 60 per cent.;

(c) on the balance of the book-profit — at the rate of 40 per cent.;

It is proposed to revise the above limits and provide uniform limits for both professional firms and non-professional firms as under–

a) on the first Rs.3,00,000 of the book-profit or in case of a loss — Rs. 1,50,000 or at the rate of 90 per cent of the book-profit, whichever is more;

(b) on the balance of the book-profit — at the rate of 60 per cent.

The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 16 of the Bill seeks to amend section 40A of the Income-tax Act relating to expenses or payments not deductible in certain circumstances.

The existing provisions contained in sub-section (3) of the said section provide that where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.

The existing provisions contained in sub-section (3A) provides that where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees.

It is proposed to insert a second proviso so as to provide that in case of payment made for plying, hiring or leasing goods carriages, the ceiling of twenty thousand rupees specified in sub-sections (3) and (3A) shall be enhanced to thirty-five thousand rupees.

The proposed amendment will take effect from 1st October, 2009.

Clause 17 of the Bill seeks to amend section 43 of the Income-tax Act, relating to definitions of certain terms relevant to income from profits and gains of business or profession.

The existing provisions contained in clause (1) of the said section provides that "actual cost" means the actual cost of the assets to the assessee, reduced by the portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

The proposed amendment seeks to insert a new *Explanation* 13 to the said sub-section to provide that the actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD (relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act, 1961) and shall be treated as 'nil' (a) in the case of such assessee and (b) in any other case if the capital asset is acquired or received by way of gift or will or irrevocable trust, on any distribution on liquidation of the company and by such mode of transfer as is referred to in clauses (iv), (v), (vi), (vib), (xiii) and (xiv) of section 47. The proposed amendment is consequential in nature.

It is also proposed to insert an *Explanation* in clause (6) of the said section to clarify that where the income of an assessee is derived, in part from agriculture and in part from business of the assessee chargeable to income-tax under the head "Profits and gains of business and profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed during the previous year under the Income-tax Act, 1961.

These amendments will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 18 of the Bill seeks to amend section 44AA of the Income-tax Act relating to maintenance of accounts by certain persons carrying on profession or business.

Under the existing provisions contained in the said section it is obligatory for every person carrying on business or profession other than the professions mentioned in sub-section (1) of the said section, if his income from business or profession exceeds one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds ten lakh rupees in any one of the three years immediately preceding the previous year or where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed ten lakh rupees, during such previous year or where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD or section 44AE or section 44AF or section 44BB or section 44BBB and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year, to keep and maintain the books of account and other documents as may enable the Assessing Officer to compute the total income of the said person in accordance with the provisions of the Act.

The proposed amendment seeks to provide that in the case of an assessee, who is covered under the new proposed section 44AD *vide* clause 20, the maintenance of books of account is required if he claims that the profits and gains from the business are lower than the profits and gains computed in accordance with the provisions of sub-section (1) of section 44AD and if his income exceeds the maximum amount which is not chargeable to income-tax.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 19 of the Bill seeks to amend section 44AB of the Income-tax Act relating to the audit of accounts of certain persons carrying on business or profession.

Under the existing provisions contained in the said section it is obligatory for a person carrying on business to get his accounts audited before the "specified date" by an accountant, if the total sales, turnover or gross receipts in business for the previous year or years exceeds forty lakh rupees. A person carrying on profession will also have to get his accounts audited before the said date if his gross receipts in profession for the previous year or years exceeds or exceed ten lakh rupees. Such persons will also be required to obtain before the specified date a report of the audit in the prescribed form. These requirements will apply only in relation to the accounts for the previous year or years relevant to any assessment year commencing on 1st April, 1985 or any subsequent assessment year. In cases where the accounts of a person are required to be audited by or under any other law, it will suffice if the person gets his accounts audited under such other law before the specified date and also obtains before the said date the report of audit in the prescribed form, in addition to the report of audit required under such other law. The expression "accountant", for the purposes of this provision, will have the same meaning as in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act. The expression "specified date", in relation to the accounts of the assessee of the previous year means the 30th day of September of the assessment year.

The proposed amendment seeks to provide that in the case of an assessee, who is covered under the new proposed section 44AD *vide* clause 20, the audit of books of account is required if he claims that the profits and gains from the business are lower than the profits and gains computed in accordance with the provisions of sub-section (1) of section 44AD and if his income exceeds the maximum amount which is not chargeable to income-tax.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 20 of the Bill seeks to substitute section 44AD of the Act relating to special provision for computing profits and gains of business on presumptive basis.

The existing provisions contained in the said section provide that notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in the business of civil construction or supply of labour for civil construction, a sum equal to eight per cent. of the gross receipts paid or payable to the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income, shall be deemed to be the profits and gains of such business chargeable to tax under the head "profits and gains of business or profession.

The proposed new section 44AD seeks to provide for estimating income of assessee who is engaged in any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE, at a sum equal to eight per cent. of the total turnover or gross receipts in the previous year on account of such business, or, as the case may be, a sum higher than the aforesaid sum claimed to be earned by the assessee. The scheme will apply to such resident assessee who is an individual, Hindu undivided family and partnership firm but not limited liability partnership firm, whose total turnover does not exceed forty lakh rupees.

It is further proposed that the scheme does not apply to an assessee, who has claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provision of Chapter VIA under the heading "C.-*Deductions in respect of certain incomes*" in a previous year relevant to an assessment year. Under this scheme, the assessee will be deemed to have been allowed the deductions under sections 30 to 38 and clause (b) of section 40. Accordingly, the written down value of any asset used for the purpose of the business of the assessee will be deemed to have been calculated as if the assessee had claimed and had actually been allowed the deduction in respect of depreciation for the relevant assessment year.

It is also proposed that the provisions of Chapter XVII-C of the Income-tax Act relating to the payment of advance tax shall not apply to the assessee, who opts for the above scheme in respect of such business.

It is also proposed that the assessee will not be required to maintain books of account under section 44AA and get the accounts audited under section 44AB in respect of such income unless the assessee claims that the profits and gains from the aforesaid business are lower than the profits and gains deemed to be his income under sub-section (1) of section 44AD and his income exceeds the maximum amount which is not chargeable to incometax. The proposed section also defines the expressions eligible assessee and eligible business.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 21 of the Bill seeks to amend section 44AE of the Income-tax Act, relating to special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

Under the existing provisions contained in sub-section (1) of the said section, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" is deemed to be the aggregate of the profits and gains from all the goods carriages owned by him in the previous year. Sub-section (2) of the aforesaid section *inter alia* provides that in the case of heavy goods vehicles, the profits and gains from each such goods carriage shall be deemed to be an amount equal to three thousand five hundred rupees, and three thousand one hundred and fifty rupees in the case of vehicles other than heavy goods vehicles, for every month or part of a month during which the vehicles are owned by the assessee or an amount higher than the aforesaid amounts as declared by him in his return of income.

It is proposed to enhance aforesaid amounts of profits and gains from (a) three thousand five hundred rupees to five thousand rupees per month or part of a month or the amount claimed to be actually earned by the assessee, whichever is higher in the case of heavy goods vehicles and (b) from three thousand one hundred and fifty rupees to four thousand five hundred rupees per month or part of a month or the amount claimed to be actually earned by the assessee, whichever is higher in the case of vehicles other than heavy goods vehicles.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 22 of the Bill proposes to omit section 44AF of the Income-tax Act relating to special provisions for computing profits and gains of retail business.

The existing provisions contained in the said section provides that for estimating income of an assessee who is engaged in the business of retail trade in any goods and merchandise, at a sum equal to five per cent. of the total turnover in the previous year on account of such business, or, as the case may be, a sum higher than the aforesaid sum as may be declared by the assessee in his return of income.

It is proposed to insert sub-section (6) to the said section which provides that the provisions of the said section shall not apply to any assessment year beginning on or after 1st April, 2011, in view of the substitution of section 44AD *vide* clause 20 of the Bill.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 23 of the Bill seeks to amend section 49 of the Income-tax Act, which relates to cost with reference to certain modes of acquisition.

The existing provisions contained in sub-section (2AA) of the said section provide that where the capital gain arises from the transfer of a share, debenture or warrant, which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such share, debenture or warrant shall be the value taken into account for computation of such perquisite under that sub-section.

It is proposed to substitute the said sub-section so as to provide that where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 24 of the Bill seeks to amend section 50B of the Income-tax Act relating to special provision for cost of computation of capital gains in case of slump sale.

Under the existing provisions any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be income of the previous year in which the transfer took place, further, in relation to capital assets being an undertaking or division transferred by way of such sale, the "net worth" of such undertaking or division shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48. For the purposes of this section"net worth" has been defined to be the aggregate value of the total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account.

It is proposed to substitute clause (b) of *Explanation* 2 of the said section to provide that for computing the net worth, the aggregate value of total assets shall be, (a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (C) of item (i) of sub-clause (c) of clause (6) of section 43; (b) in the case of capital assets in repsect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD (relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act, 1961), nil, and (c) in the case of other assets, the book value of such assets.

This amendment will take effect from the 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years. The proposed amendment is consequential in nature.

Clause 25 of the Bill seeks to amend section 50C of the Income-tax Act relating to special provision for full value of consideration in certain cases.

Under the existing provisions contained in the said section where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

It is proposed to amend the said section so as to substitute the words "or assessed" wherever they occur in the said section by the words "or assessed or assessable". It is also proposed to insert an *Explanation* after the existing *Explanation* so as to define the expression "assessable" as the price which the stamp valuation authority would have adopted or assessed, if it were referred to such authority for the payment of stamp duty notwithstanding anything to the contrary contained in any other law for the time being in force.

This amendment will take effect from the 1st October, 2009.

Clause 26 of the Bill seeks to amend section 56 of the Income-tax Act relating to income from other sources.

The existing provision of clause (vi) of sub-section (2) of the said section brings any sum of money, the aggregate value of which exceeds fifty thousand rupees, which is received without consideration by an individual or a Hindu undivided family from persons other than relatives as defined under that section within the purview of income-tax. Certain exceptions have also been provided under the proviso to the said clause.

The proposed amendment seeks to tax specified properties, including a sum of money, received without consideration or for inadequate consideration.

This amendment will take effect from 1st October, 2009.

It is also proposed to amend sub-section (2) of said section so as to insert a clause which provides that income by way of interest received on compensation or on enhanced compensation referred to in sub-section (2) of section 145A shall be chargeable to income tax under head income from other sources.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 27 of the Bill seeks to amend section 57 of the Income-tax Act, which relates to deductions.

The existing provisions contained in the said section provides that the income chargeable under the head "Income from other sources" shall be computed after making the deductions specified therein.

It is proposed to amend section 57 of the said Act so as to provide that in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of the said section.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 28 of the Bill seeks to insert a new section 73A which contains provisions relating to carry forward and set off of losses by specified business.

The sub-section (1) of the proposed new section seeks to provide that any loss, computed in respect of any specified business referred to in section 35AD (relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act,1961) shall not be set off except against profits and gains, if any, of any other specified business. Further, sub-section (2) of the proposed new section seeks to provide that where for any assessment year any loss computed in respect of the specified business referred to in the sub-section (1) has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and -

(i) it shall be set off against the profits and gains, if any, of any specified business carried on by him assessable for that assessment year; and

(ii) if the loss can not be wholly so set-off, the amout of loss not so set-off shall be carried forward to the following assessment year and so on.

The proposed amendment is consequential in nature.

This amendment will take effect from the 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 29 of the Bill seeks to amend section 80A of the Income-tax Act relating to deductions to be made from the gross total income in computing total income.

The existing provision contained in the said section provides that in computing the total income of an assessee, there shall be allowed from his gross total income, the deductions specified in sections 80C to 80U of the Act. The said section further provides that the aggregate amount of deductions in computing the total income shall not, in any case, exceed the gross total income of the assessee.

The proposed sub-section (4) of the said section provides that notwithstanding anything to the contrary contained in section 10A, or section 10AA or section 10B, or section 10BA or in provisions of Chapter VIA under the heading "C-*Deductions in respect of certain incomes*" where in the case of an assessee any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

The proposed sub-section (5) provides that where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provisions of this Chapter under the heading "C.-Deductions in respect of certain income", no deduction shall be allowed to him thereunder.

These amendments will take effect retrospectively from the 1st April, 2003 and will, accordingly, apply in relation to assessment year 2003-2004 and subsequent years.

The proposed sub-section (6) provides that notwithstanding anything to the contrary contained in section 10A or section 10AA or section10B or section 10BA or in any provisions of Chapter VIA under the heading "C-*Deductions in respect of certain incomes*", where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date. The *Explanation* as proposed in the said sub-section provides that (i) in relation to any goods or services sold or supplied, market value means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any; (ii) in relation to any goods or services acquired, market value means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any. The said *Explanation* is clarificatory in nature.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 30 of the Bill seeks to amend section 80CCD of the Income-tax Act relating to deduction in respect of contribution to pension scheme notified by the Central Government.

The existing provisions contained in the sub-section (1) of said section provides that where an assessee being an individual, employed by the Central Government or any other employer on or after 1st January, 2004, who has paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, there shall be allowed a deduction in the computation of his total income of the whole of the amount, paid or deposited by him as does not exceed ten per cent. of his salary in the previous year.

It is proposed to amend the said sub-section so as to allow deductions under the aforesaid section to any other assessee in addition to an assessee, being an individual, employed by the Central Government or any other employer on or after the 1st day of January, 2004.

It is further proposed to amend said section so as to insert a new sub-section (5) which provides that the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

These amendments will take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to the assessment year 2009-2010 and subsequent years.

Clause 31 of the Bill seeks to amend section 80DD of the Income-tax Act, which relates to deduction in respect of maintenance including medical treatment of a dependant, who is a person with disability.

Under the existing provisions where an assessee, being an individual or a Hindu undivided family, has during the previous year incurred any expenditure for the medical treatment, training and rehabilitation of a dependant, being a person with disability, or has paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or Administrator or the specified company approved in this behalf for the maintenance of a dependant, being a person with disability the assessee shall be allowed subject to specified condition, a deduction of a sum of fifty thousand rupees. Also, where such dependant is a person with severe disability, a deduction of seventy five thousand rupees is allowed.

The proposed amendment seeks to amend the proviso to subsection (1) of the said section to enhance the present limit of seventy five thousand rupees to one hundred thousand rupees for a dependant who is a person with severe disbaility.

This amendment will take effect from 1st April 2010 and will, accordingly, apply in relation to assessment year 2010-2011 and subsequent years.

Clause 32 of the Bill seeks to amend clause (c) of sub-section (3) of section 80E of the Income-tax Act relating to deduction in respect of interest on loan taken for higher education.

Under the existing provisions a deduction is allowed to an individual under the said section in respect of interest on loan taken from any financial institution or any approved charitable institution for the purposes of pursuing his higher education or that of his relative. As per clause (c) of sub-section (3) of said section, "higher education" means full time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics.

It is proposed to substitute clause (c) so as to provide that "higher education" will mean any course of study pursued after passing the senior secondary examination or its equivalent from any school, board or university recogised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority.

The proposed amendment will take effect from the 1st day of April, 2010 and will, accordingly, apply in relation to assessment year 2010-2011 and subsequent years.

Clause 33 of the Bill seeks to amend section 80G of the Income-tax Act, relating to deductions in respect of donations to certain funds, charitable institutions, etc.

The existing proviso to clause (vi) of sub-section (5) of said section provides that the approval granted by the Commissioner to any institution or fund shall have the effect for such number of assessment year not exceeding five assessment years, as may be specified in the approval.

The proposed amendment seeks to omit the proviso to clause (vi) of sub-section (5) of section 80G so as to do away with the time limit specified in the aforesaid proviso.

The proposed amendment will take effect from1st day of October, 2009.

The existing provisions contained in sub-section (5) of the said section provides that the deduction under sub-section (1) is available to donations made to any institution or fund if it is established for a charitable purpose and it fulfils such other conditions as are specified. Clause (15) of section 2 of the said Act defines "charitable purpose" to include relief of the poor, education, medical relief and the advancement of any other object of general public utility. However, the proviso to the said clause provides that "advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of (i) any activity in the nature of trade, commerce or business;or (ii) any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of a use or application or retention of the income from any such activity.

The proposed amendment seeks to provide that if any institution or fund had been approved under clause (vi) of sub-section (5) of section 80G for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of aforesaid section and notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been (a)established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; (b)approved under said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009.

This amendment will take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to the assessment year 2009-2010 only.

Clause 34 of the Bill seeks to amend section 80GGB which relates to deduction in respect of contributions given by companies to political parties.

The existing provisions of the said section provides for deduction of any sum contributed by an Indian Company to any political party in the previous year while computing the total income of such Indian company.

It is proposed to amend the aforesaid section so as to bring "electoral trust" within the scope of the above said section so that contribution made by an Indian company to electoral trusts would also be eligible for deduction under that section.

This amendment will take effect from the 1st day of April, 2010, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 35 of the Bill seeks to amend section 88GGC which relates to deduction in respect of contributions given by any person to political parties.

The existing provisions of the said section provides for deduction of any sum contributed by any person, except local authority and every artificial juridical person wholly or partly funded by the Government to any political party in the previous year while computing the total income of such Indian company.

It is proposed to amend the aforesaid section so as to bring "electoral trust" within the scope of the above said section so that contribution made by such person to electoral trusts would also be eligible for deduction under that section.

This amendment will take effect from the 1st day of April, 2010, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 36 of the Bill seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Under the existing provisions contained in the clause (iv) of sub-section (4) of said section a deduction is allowed to an undertaking which, – (a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2010; (b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2010; (c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2010.

It is proposed to amend sub-clauses (a), (b) and (c) of the said clause so as to extend the time limit from 31st March, 2010 to 31st March, 2011.

These amendments will take effect retrospectively from 1st April, 2009.

It is further proposed to amend sub-clause (b) of clause (v) of sub-section (4) of said section which provides that an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if such undertaking begins to generate or transmit or distribute power before 31st March, 2008 are eligible for deduction.

It is proposed to amend the said sub-clause so as to extend the date to begin generation, transmission or distribution of power from 31st March, 2008 to 31st March, 2011.

This amendment will take effect retrospectively from 1st April, 2008.

It is also proposed to omit clause (vi) of sub-section (4) of said section which provides for deduction to any undertaking carrying on the business of laying and operating a cross-country natural gas distribution network, including pipelines and storage facilities being an integral part of such network. In view of the said amendment, it is also proposed to make amendments, with respect to sub-section (1) and sub-section (3) of the said section, which are consequential in nauture.

This amendment is consequential in nature.This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-2011 and subsequent assessment years.

It is also proposed to amend the *Explanation* to said section to clarify that nothing contained in the said section shall apply in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (1) of said section.

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-01 and subsequent years

Clause 37 of the Bill seeks to amend section 80-IB of the Income-tax Act, which relates to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

Sub-section (9) of the said section provides for deduction in respect of profits and gains derived from commercial production or refining of mineral oil subject to the conditions stipulated in the said sub-section.

It is proposed to substitute the said sub-section to provide that the amount of deduction to an undertaking shall be hundred per cent. of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils any of the following -

(i) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before the 1st day of April, 1997;

(ii) is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997;

(iii) is engaged in refining of mineral oil and begins such refining on or after the 1st day of October 1998.

It is further proposed to provide by way of an *Explanation* that for the purposes of claiming deduction under this sub-section, all blocks licensed under a single contract which is, awarded under the New Exploration Licensing Policy announced by the Government of India vide Resolution No.O-19018/22/95-ONG.DO.VL dated 10th February 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by the Central or State Government in any other manner, shall be treated as a single "undertaking".

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent years.

It is further proposed to amend clause (iii) of the said sub-section (9) as so substituted to provide that the benefit of deduction under the said sub-section shall be available if the undertaking is engaged in refining of mineral oil and begins such refining on or after the 1st day of October, 1998 but not later than the 31st day of March, 2012.

This amendment will take effect retrospectively from the 1st April, 2009.

It is also proposed to further amend the said sub-section (9) as so substituted and further amended by inserting a new clause (iv) to provide that the benefit of deduction under the said sub-section shall be available if the undertaking is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts under the New Exploration Licensing Policy announced by the Government of India Vide Resolution No.0-19018/22/95-ONG.DO.VL dated 10th February, 1999 (hereinafter referred to as "NELP-VIII") and begins commercial production of natural gas on or after the 1st day of April, 2009.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010—2011 and subsequent years.

It is further proposed to amend sub-section (10) of section 80-IB which provides for a hundred per cent deduction of the profits derived by an undertaking developing and building housing projects approved by a local authority before 31st March, 2007 subject to the specified conditions.

The proposed amendment seeks to insert two new conditions by way of two new clauses namely clause (e) which proposes to provide that not more than one residential unit is allotted to any person not being an individual and clause (f) which proposes to provide that in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons:-

(i) the spouse or minor children of such individual,

(ii) the Hindu undivided family in which such individual is the karta,

(iii) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the karta.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

It is also proposed to insert an *Explanation* to the sub-section (10) of the said section which clarifies that nothing contained in the said sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including Central or State Government).

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Clause 38 of the Bill seeks to amend section 89 of the Income-tax Act relating to relief when salary, etc., is paid in arrears or in advance.

Under the existing provisions contained in the said section, an assessee is entitled to tax relief, if on account of receipt of salary, or a payment being a profit in lieu of salary under clause (3) of section 17, or is in receipt of a sum in the nature of family pension as defined in the *Explanation* to clause (iia) of section 57, in arrears or in advance his tax liability is increased in the year of receipt.

It is proposed to insert a proviso to the said section so as to provide that no relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i) of clause (10C) of section 10, a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (10C) of section 10 in respect of such, or any other, assessment year.

This amendment will take effect from 1st April, 2010, and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Clause 39 of the Bill proposes to substitute section 90 of the Income-tax Act, relating to agreement with foreign countries.

Under the existing provision, power has been conferred upon the Central Government to enter into agreement with the Government of any country outside India for granting of relief in respect of income on which income-tax has been paid both under the said Act and income-tax in that foreign country.

It is proposed to substitute the said section 90 by a new section so as to confer power upon the Central Government to enter into agreement with the Government of any specified territory outside India in addition to entering into agreement with foreign countries as provided in the said existing section 90. It is further proposed to insert an *Explanation* in the new section 90 to define "specified territories" which means any area outside India which may be notified as such by the Central Government for the purposes of said section.

This amendment will take effect from 1st October, 2009.

Clause 40 of the Bill seeks to amend section 92C of the Income-tax Act which relates to computation of arm's length price.

Under the existing provisions contained in sub-section (2) of the said section, the most appropriate method shall be applied for determination of arm's length price in the manner prescribed. The proviso to the said sub-section (2) provides that where the most appropriate method results in more than one price, the arithmetical mean of such or, at the option of the assessee, a price which differs from the arithmetical mean by an amount not exceeding five per cent. of such mean may be taken to be the arm's length price in relation to the international transaction.

It is proposed to substitute the existing proviso so as to provide that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices. It is further provided that the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed five per cent. of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price.

This amendment will take effect from 1st October, 2009.

Clause 41 of the Bill seeks to insert a new section 92CB in the Income-tax Act, relating to power of Board to make 'safe harbour rules'.

The proposed new section seeks to provide that the determination of arm's length price under section 92C or section 92CA shall be subject to safe harbour rules.

It is also proposed that the Board may, for the purposes of sub-section (1), make rules for 'safe harbour'.

It is also proposed to insert an *Explanation* to provide that 'safe harbour' means circumstances in which the income tax authorities shall accept the transfer price declared by the assessee.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 42 of the Bill seeks to amend section 115BBC of the Income-tax Act relating to anonymous donations to be taxed in certain cases.

Under the existing provision contained in sub-section (1) of said section where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in sub-clause (iiiad) or sub-clause (vi) or any hospital or other institution referred to in sub-clause (iiiae) or sub-clause (via) or any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub-clause (v) of clause (23C) of section 10 or any trust or institution referred to in section 11, includes any income by way of any anonymous donation, the income tax payable shall be the aggregate of the amount of income tax calculated on the income by way of any anonymous donation, at the rate of thirty per cent. and the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of anonymous donation.

It is proposed to amend clause (i) of sub-section (1) of the said section so as to provide that anonymous donations, to the extent the aggregate of anonymous donations exceeds five per cent. of the total income of the assessee or an amount of rupees one lakh, whichever is higher, would be taken into account for the purposes of aforesaid section.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 43 of the Bill seeks to amend section 115JA of the Income-tax, relating to deemed income relating to certain companies.

The existing provisions of the said section provides that in the case of an assessee, being a company, the total income computed in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 1997 but before 1st April, 2001 is less than thirty per cent. of its book profit, the total income of such assessee chargeable to tax for the relevant previous year shall be deemed to be an amount equal to thirty per cent. of such book profit. The expression "book profit" has been defined in the *Explanation* after second proviso which defines the book profit as the net profit as shown in the profit and loss account prepared in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 as increased or reduced by certain adjustments, as specified in the said section.

It is proposed to amend the said section so as to provide that any provision for diminution in the value of any asset will also be included in the computation of book profit under the said section.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-99 and subsequent years.

Clause 44 of the Bill seeks to amend section 115JAA of the Act relating to tax credit in respect of tax paid on deemed income relating to certain companies.

Under the existing provisions contained in sub-section (3A) of said section, the amount of tax credit determined under sub-section (2A) shall be carried forward and set-off in accordance with the provisions of sub-sections (4) and (5) of the aforesaid section but such carry forward shall not be allowed beyond the seventh assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1A) of that section.

It is proposed to amend sub-section (3A) of said section 115JAA to provide that the amount of tax credit determined under sub-section (2A) shall not be allowed to carry forward beyond the tenth assessment year (instead of seventh assessment year) immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1A).

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Clause 45 of the Bill seeks to amend section 115JB of the Act relating to special provision for payment of tax by certain companies.

Under the existing provisions contained in the said section 115JB, in case of a company, if the tax payable on the total income as computed under the income-tax Act in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 2007, is less than ten per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be ten per cent. of such book profit.

It is proposed to amend sub-section (1) of said section 115JB to provide that if the income-tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after 1st April, 2010 is less than fifteen per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be fifteen per cent. of such book profit.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

It is further proposed to insert a new clause (i) after clause (h) in the *Explanation* 1 to sub-section (2) of said section so as to provide that any provision for diminution in the value of any asset will also be included in the computation of book profit under the said section.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-02 and subsequent assessment years.

Clause 46 of the Bill seeks to amend section 115-O of the Income-tax Act relating to tax on distributed profits of domestic companies.

The existing provisions contained in sub-section (1) of said section, *inter alia*, provides that any amount declared, distributed or paid by such company, by way of dividends, shall be charged to additional income-tax or tax on distributed profits at the rate of fifteen per cent. Sub-section (1A) of said section provides that the amount of dividends referred to in sub-section (1) shall be reduced by the amount of dividend, if any, received by the domestic company during the financial year, if (a) such amount of dividend is received from its subsidiary; (b) the subsidiary has paid tax under this section on such dividend; and (c) the domestic company is not a subsidiary of any other company. The said sub-section also provides that the same amount of dividend shall not be reduced more than once.

It is proposed to amend sub-section (1A) of the said section so as to provide that the amount referred to in sub-section (1) of that section shall also be reduced by the amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 47 of the Bill seeks to amend section 115WE of the Income-tax Act relating to Assessment.

Sub-section (1B) of the said section provides that the Central Government may, save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

It is proposed to amend sub-section (1B) of the said section so as to extend the time limit from 31st March, 2009 to 31st March, 2010 so that no direction shall be issued after the 31st March, 2010.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 48 of the Bill seeks to insert a new section 115WM relating to "Chapter XII-H not to apply after certain date".

The proposed new section provides that nothing contained in Chapter XII-H shall apply in respect of any assessment for the assessment year commencing on 1st April, 2010 or any subsequent year.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply to the assessment year 2010-11 and subsequent assessment years.

Clause 49 of the Bill seeks to amend section 131 of the Income-tax Act which relates to power regarding discovery, production of evidence, etc.

Vide clause 55 of the Bill proposes to insert new section 144C in the Income-tax Act so as to provide that the assessee shall file his objections among others to the Dispute Resolution Panel against the draft of the proposed order of assessment of Assessing Officer.

It is, therefore, proposed to amend sub-section (1) of section 131 so as to provide that Dispute Resolution Panel refered to in clause (a) of sub-section (15) of section 144C shall have the same power as are vested in a court under the Code of Civil Procedure, 1908. The proposed amendment is consequential in nature.

This amendment will take effect from 1st October, 2009.

Clause 50 of the Bill seeks to amend sub-section (1) of section 132 of the Income-tax Act relating to search and seizure.

The existing provisions contained in the said sub-section (1) provides that where the Director General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner authorised by the Board in this behalf on his satisfaction of certain conditions may issue warrant of authorisation for conducting seacrh and seizure operation.

It is proposed to amend the said sub-section so as to clarify that Additional Director or Additional Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

This amendment will take effect retrospectively from 1st June, 1994.

It is further proposed to amend said sub-section so as to clarify that Joint Director and Joint Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

The said amendment will take effect retrospectively from1st October, 1998.

The amendment further provides that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after 1st October, 2009 unless he has been empowered by the Board to do so.

It is also proposed to amend sub-section (1A) of said section so as to clarify that Additional Director or Additional Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

This amendment will take effect retrospectively from 1st June, 1994.

It is also proposed to amend the said sub-section so as to provide that Joint Director and Joint Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

This amendment will take effect retrospectively from 1st October, 1998.

Clause 51 of the Bill seeks to amend sub-section (1) of section 132A of the Income-tax Act relating to powers to requisition books of account, etc.

The existing provisions provides that the Director General or Director or the Chief Commissioner or Commissioner may authorise any Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer.

It is proposed to amend sub-section (1) of the said section so as to include that Additional Director or Additional Commissioner may be authorised to exercise the powers specified in the said section.

This amendment will take effect retrospectively from 1st June, 1994.

Clause 52 of the Bill seeks to amend section 139A of the Income-tax Act relating to Permanent Account Number (PAN).

The existing provisions contained in sub-section (5B) of the said section provides that where any sum or income or amount has been paid after deducting tax under Chapter XVIIB, every person deducting tax under this Chapter shall quote the Permanent Account Number of the person to whom such sum or income or amount has been paid by him in all quarterly statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200.

It is proposed to amend the said sub-section so as to provide that every person deducting tax under this Chapter shall quote the Permanent Account Number of the person to whom such sum or income or amount has been paid by him in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200.

Sub-section (5D) of the said section provides that every person collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer or licensee or lessee referred to in that section in all quarterly statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 206C.

It is proposed to amend the said sub-section so as to provide that every person collecting tax in accordance with the provisions of section 206C shall quote the Permanent Account Number of every buyer or licensee or lessee in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 206C.

This amendment will take effect from 1st October, 2009.

Clause 53 of the Bill seeks to amend section 140 of the Income-tax Act relating to return by whom to be signed.

Under the existing provisions contained in the said section the return under section 115WD or section 139 shall be signed and verified by the concerned persons as specified in the said section.

This clause seeks to amend the said section so as to insert a new clause (cd) which provides that in the case of a limited liability partnership, the return shall be signed and verified by the designated partner and where for any unavoidable reason the designated partner is not able to sign the return or where there is no designated partner by any other partner.

This amendment will take effect from 1st April, 2010, and will, accordingly apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 54 of the Bill seeks to amend section 143 of the Income-tax Act relating to Assessment.

Sub-section (1B) of the said section provides that the Central Government may, save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

It is proposed to amend sub-section (1B) of the said section to extend the time limit from 31st March, 2009 to 31st March, 2010 so that no direction shall be issued after the 31st March, 2010.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 55 of the Bill seeks to insert a new section 144C in the Income-tax Act relating to Dispute Resolution Panel.

The subjects of transfer pricing audit and the taxation of foreign company are at nascent stage in India. Often the Assessing Officers and Transfer Pricing Officers tend to take a conservative view. The correction of such view take very long time with the existing appellate structure.

With a view to provide speedy disposal, it is proposed to amend the Income-tax Act so as to create an alternative dispute resolution mechanism within the income-tax department and accordingly, section 144C has been proposed to be inserted so as to provide *inter alia* the Dispute Resolution Panel as an alternative dispute resolution mechanism.

This amendment will take effect from 1st October, 2009.

Clause 56 of the Bill seeks to substitute section 145A of the Income-tax Act, which relates to method of accounting in certain cases.

The existing provisions contained in said section 145A provides that while computing the value of the inventory as on the 1st and the last day of the previous year, the computation according to the method of accounting regularly employed by the assessee shall be adjusted to include the amount of any tax, duty, cess or fees paid or liability incurred for the same under any law in force.

It is proposed to amend the said section so as to provide that the interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 57 of the Bill seeks to amend section 147 relating to income escaping assessment.

It is proposed to insert *Explanation* 3 to the said section so as to provide that for the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess income in respect of any issue which has escaped assessment and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-1990 and subsequent years.

Clause 58 seeks to insert a new section 167C relating to liability of partners of limited liability partnership in liquidation.

The proposed new section seeks to provide that where any tax is due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, then, every person who was a partner of the limited liability partnership at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

This amendment will take effect from 1st April, 2010, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 59 of the Bill seeks to amend section 194A which relates to interest other than "interest on securities".

The existing provisions contained in sub-section (3) of the said section provide that the provisions of sub-section (1) of the said section shall not apply in respect of certain income or receipt. Clause (x) of the said sub-section provides that provisions of sub-section (1)

shall not be applicable in respect of income paid or payable on zero coupon bond issued by an infrastructure capital company or infrastructure capital fund or public sector company on or after 1st June, 2005.

It is proposed to amend the said clause (x) of sub-section (3) of section 194A so as to include "scheduled bank" after "public sector company". The proposed amendment is consequential in nature.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 60 seeks to substitute the existing section 194C of the Income-tax Act relating to deduction of tax at source on payment to contractors and sub-contractors.

Under the existing provisions, if certain persons make payment for carrying out any work to a contractor then tax is deductible at source at the rate of one per cent. in the case of payment for advertising contract and two per cent. in the case of any other contract. Further, tax is deductible at source at the rate of one per cent. when a contractor makes a payment to a sub-contractor. The section further provided that no tax shall be deductible at source on payment or credit up to twenty thousand rupees. However, if the aggregate payment or credit exceeds fifty thousand rupees in a year then tax is deductible at source. The provisions give exemption from tax deduction at source on payment made to a sub-contractor during the course of business of plying, hiring or leasing goods carriages on fulfilment of certain conditions.

The proposed amendment seeks to substitute section 194C.

Sub-section (1) of the proposed amendment provides that any person shall deduct tax at source at the rate of one per cent. if the payee is an individual or a Hindu undivided family or at the rate of two per cent. in the case of any other person, on payment to a resident contractor for carrying out any work.

Sub-section (2) provides that if the sum is credited to suspense account, etc., then also tax at source needs to be deducted.

Sub-section (3) provides that where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation* to section 194C, tax shall be deducted at source on the invoice value excluding the value of material if such value is mentioned separately in the invoice, or on the whole of the invoice value if the value of material is not mentioned separately in the invoice.

Sub-section (4) is identical to the proviso to earlier sub-section (1) of section 194C.

Sub-section (5) is identical to clause (i) of sub-section (3) of the existing section 194C.

The proposed sub-section (6) provides that no tax shall be deducted at source in case of payment for plying, hiring or leasing goods carriages provided that the contractor provides his Permanent Account Number.

The proposed sub-section (7) provides that the "payer" mentioned in sub-section (6) shall furnish to the prescribed Income Tax Authority or the person authorised by it such particulars as may be prescribed. The Explanation to the proposed section defines the expressions "specified person", "goods carriage" and "contract".

Clause (iv) of the *Explanation* defines the expression "work" to include advertising, broadcasting and telecasting including production of programmes for such broadcasting or telecasting, carriage of goods or passengers by any mode of transport other than by railways, catering and manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer.

The *Explanation* further provides that the work shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person other than such customer.

This amendment will take effect from 1st October, 2009.

Clause 61 of the Bill seeks to amend section 194-I of the Income-tax Act, which relates to deduction of tax at source on any income payable by way of rent.

Clauses (a), (b) and (c) of the said section provide for deduction of tax at source on income by way of rent. It, *inter alia* provides such deduction at the rate of ten per cent. for the use of any machinery or plant or equipment. It further provides that such deduction at the rate of fifteen per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is an individual or a Hindu undivided family and twenty per cent. where such payee is a person other than an individual or a Hindu undivided family.

It is proposed to substitute the said clauses (a), (b) and (c) by new clauses (a) and (b) so as to provide that deduction of tax at source on an income by way of rent shall be at the rate of

(a) two per cent. for the use of any machinery or plant or equipment; and (b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings.

These amendments will take effect from 1st October, 2009.

Clause 62 of the Bill seeks to amend section 197A of the Income-tax Act which relates to no deduction to be made in certain cases.

Under the existing provisions contained in section 197A, no tax is deducted at source on certain incomes, if the deductee files a declaration in the prescribed form and in the case of an offshore banking unit on interest paid to non-resident or a person not ordinarily resident in India subject to fulfilment of certain conditions.

It is proposed to insert a new sub-section (1E) so as to provide that no deduction of tax shall, notwithstanding anything contained in this Chapter be made from any payment to any person for, or on behalf of, the New Pension System Trust.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 63 of the Bill seeks to amend section 200 of the Income-tax Act relating to duty of the person deducting tax.

The proposed amendment seeks to provide that any person deducting any sum on or after the 1st day of April, 2005 in accordance with the provisions of Chapter XVII-B or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorized by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

This amendment will take effect from 1st October, 2009.

Clause 64 of the Bill seeks to insert new section 200A providing for processing of statements of tax deducted at source.

The proposed new section 200A provides that the statement of tax deduction at source made under section 200 shall be processed and sums deductible under Chapter XVII-B shall be computed after making adjustments of any arithmetical error or apparent incorrect claim in the statement and interest, if any, shall be charged on the sum so computed. The sum payable or refundable to the deductor shall be determined after adjusting the aforesaid computed sum against any amount paid under section 200 and section 201 and any amount paid otherwise by way of tax or interest. Intimation shall be sent to the deductor specifying the amount payable or refundable to the deductor. No intimation shall be sent after the expiry of one year from the end of the financial year in which the statement is filed. Clause (a) of the *Explanation* provides that an incorrect claim apparent from any information in the statement" shall mean (i) a claim, on the basis of an entry, in the statement of an item, which is inconsistent with another entry of the same or some other item in such statement; and (ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act. It is further provided that for the processing of statements, the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor.

These amendments will take effect from 1st April, 2010.

Clause 65 of the Bill seeks to amend section 201 of the Income-tax Act which relates to consequences of failure to deduct or pay.

Vide clause 63 of the Bill proposes to amend section 200, specifying that any person deducting any sum on or after the 1st day of April, 2005 in accordance with the provisions of Chapter XVII-B, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

It is, therefore, proposed to make consequential amendment to section 201 of the Income-tax Act.

This amendment will take effect from 1st October, 2009.

Sub-clause (b) of clause 65 seeks to provide time limit for passing of order under sub-section (1) of section 201 in case of resident tax payers. It provides that no order shall be made under sub-section(1) of section 201, deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax in the case of a person resident in India, at any time after the expiry of two years from the end of the financial year in which the statement is filed in a case where the statement referred to in section 200 has been filed. It further provides that in any other case such order shall not be made at any time after four years from the end of the financial year in which payment is made or credit is given. It further provides that such order for a financial year commencing on or before 1st day of April, 2007 may be passed at any time on or before the 31st day of March, 2011. The sub clause also provides that the provisions of sub-clause (ii) of sub-section (3) of section 153 and of *Explanation* 1 to section 153 shall, so far as may apply to the time limit prescribed in proposed sub-section (3) of section 201.

This amendment will take effect from 1st April, 2010.

Clause 66 of the Bill seeks to amend section 203A of the Income-tax Act which relates to tax deduction and collection account number.

Vide clause 63 of the Bill proposes to amend section 200, specifying that any person deducting any sum on or after the 1st day of April, 2005 in accordance with the provisions of Chapter XVII-B, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

Vide clause 70 of the Bill proposes to amend section 206C specifying that any person collecting tax on or after the 1st day of April, 2005 shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

It is, therefore, proposed to make consequential amendment to section 203A of the Income-tax Act.

This amendment will take effect from 1st October, 2009.

Clause 67 of the Bill seeks to amend section 206A of the Income-tax Act relating to furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

The proposed amendment seeks to provide that any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case by way of interest (other than interest on securities), shall prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is further provided that the Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII to prepare and deliver or cause to be delivered such statements for such period as may be prescribed in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is proposed to make consequential amendment to section 272A of the Income-tax Act.

This amendment will take effect from 1st October, 2009.

Clause 68 seeks to insert a new section 206AA after section 206A of the Income-tax Act relating to requirement to furnish Permanent Account Number.

The proposed sub-section (1) of the said section specifies that any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIB (hereinafter referred to as the deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereinafter referred as the deductor), failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of twenty per cent., whichever is higher.

The proposed sub-section (2) of the said section provides that the declaration filed under section 197A shall not be valid unless the person filing the declaration furnishes his Permanent Account Number in such declaration.

The proposed sub-section (3) of the said section provides that in case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

The proposed sub-section (4) of the said section provides that no certificate under section 197 shall be granted unless it contains the Permanent Account Number of the applicant.

The proposed sub-section (5) of the said section provides that the deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all correspondence, bills, vouchers and other documents which are exchanged between them.

The proposed sub-section (6) of the said section provides that where the Permanent Account Number provided by the deductee is invalid or it does not belong to the deductee, then it shall be deemed that Permanent Account Number has not been furnished to the deductor and tax shall be deducted under sub-section (1).

This amendment will take effect from 1st April, 2010.

Clause 69 of the Bill seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

The proposed amendment seeks to provide that any person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

This amendment will take effect from 1st October, 2009.

Clause 70 of the Bill seeks to amend section 208 of the Income-tax Act relating to conditions of liability to pay advance tax.

Section 208 specifies that advance tax shall be payable in every case where the amount of such tax payable by the assessee during a financial year is five thousand rupees or more.

It is proposed to enhance the said limit from five thousand rupees to ten thousand rupees.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 71 of the Bill seeks to amend section 246A of the Income-tax Act relating to appeal filed before Commissioner (Appeals).

The proposed amendment seeks to exclude any order passed under sub-section (3) of section 143 in pursuance of directions of the Dispute Resolution Panel as an appealable order before Commissioner (Appeals).

This amendment will take effect from 1st October, 2009.

Clause 72 of the Bill seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

It is proposed to insert a new clause after clause (c) of sub-section (1) so as to provide that an order passed by an Assessing Officer under sub-section (3) of section 143 in pursuance of directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order is appealable to the Appellate Tribunal under the said section. The proposed amendment is consequential in nature.

This amendment will take effect from 1st October, 2009.

Clause 73 of the Bill seeks to amend section 271 of the Income-tax Act which relates to penalties imposable for failure to furnish returns, comply with notices, concealment of income, etc.

Under the existing provisions contained in the *Explanation* 5A of sub-section (1) of said section, where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of,–(i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or (ii) any income based on any entry in any books of account or other documents or transactions and claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year; which has ended before the date of the search and the due date for filing the return of income for such year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

It is proposed to amend the said *Explanation* so as to clarify that where the return of income for such previous year has been furnished before the said date but such income has not been declared therein, in such case the assessee shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

This amendment will take effect retrospectively from 1st June, 2007.

Clause 74 of the Bill seeks to amend section 272A of the Income-tax Act which relates to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

Vide clause 67 of the Bill proposes to amend section 206A of the Income-tax Act relating to furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.The proposed amendment seeks to provide that any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case by way of interest (other than interest on securities), shall prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is further provided that the Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII to prepare and deliver or cause to be delivered such statements for such period as may be prescribed in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is, therefore, proposed to make consequential amendment to section 272A of the Income-tax Act.

This amendment will take effect from 1st October, 2009.

Clause 75 of the Bill seeks to amend section 281B of the Income-tax Act relating to provisional attachment to protect revenue in certain cases.

The existing provisions of the second proviso to sub-section (2) of the said section provides that where an application under section 245C is made to the Settlement Commission, the time taken by the Settlement Commission in making an order under sub-section (1) of section 245D would be excluded for computing the period of limitations of the provisional attachment order under this section.

It is proposed to insert a third proviso in sub-section (2) of the said section 281B so as to provide that the period during which the proceedings for assessment or re-assessment are stayed by an order or injunction from any court shall be excluded from the period of operation of the provisional attachment order specified in the first proviso of the aforesaid sub-section.

This amendment will take effect retrospectively from 1st April, 1988 and will, accordingly, apply in relation to the assessment year 1988-89 and subsequent years.

Clause 76 of the Bill seeks to substitute section 282 of the Income-tax Act which relates to service of notice generally.

Under the existing provisions contained in the said section a notice or requisition under the Act may be served on the person therein named either by post or as if it were a summons issued by a court.

It is proposed to provide that the service of notice or summon or requisition or order or any other communication may be made by delivering or transmitting a copy thereof by post or courier service or in such manner as provided in the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or by any other means of transmissions as may be provided by rules made by the Board in this behalf.

It is also proposed that the Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which such communication may be delivered.

This amendment will take effect from 1st October, 2009.

Clause 77 of the Bill seeks to insert a new section 282B of the Income-tax Act relating to allotment of Document Identification Number.

It is proposed to insert a new section 282B in the Income-tax Act so as to provide that every income tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon. It is further proposed that where the notice, order, letter or any correspondence issued by any income-tax authority does not bear a Document Identification Number, such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued.

It is also proposed to provide that every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number. It is also proposed to provide where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear Document Identification Number, such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received.

This amendment will take effect from 1st October, 2010.

Clause 78 of the Bill seeks to insert new section 293C in the Income-tax Act, relating to power to withdraw the approval.

It is proposed to insert a new section 293C in the Income-tax Act so as to provide that the income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, may withdraw such approval at any time, although such provision to withdraw such approval has not been specifically, provided for in such provision.

However, the income-tax authority shall give a reasonable opportunity of showing cause against the proposed withdrawal to the concerned assessee, and thereafter withdraw the approval and record the reasons for doing so.

This amendment will take effect from 1st October, 2009.

Clause 79 of the Bill seeks to amend rule 5 of the First Schedule of the Income-tax Act, relating to computation of profits and gains of non-life insurance business.

Under the existing provisions contained in rule 5 of the said Schedule of the Income-tax Act, profits and gains of non-life insurance business is taken to be profit disclosed by annual account as per Insurance Act, 1938 subject to adjustments under clause (a) and clause (c) of said rule 5.

The proposed amendment seeks to amend rule 5 of the said Schedule to provide that profits and gains of any business of insurance other than life insurance shall be taken to be the profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 or rules made thereunder or the Insurance Regulatory and Development Authority Act, 1999 or regulations made thereunder, subject to the adjustments mentioned in clause (a), clause (c) of aforesaid rule 5 and the newly inserted clause (b), which provides that adjustment shall be made by way of deduction in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realization of investments in accordance with the regulations prescribed by Insurance Regulatory and Development Authority. Adjustment shall also be made by way of increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realization of investments in accordance with the regulations prescribed by Insurance Regulatory and Development Authority.

This amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 80 of the Bill seeks to amend Part A of the Fourth Schedule to the Income-tax Act, which relates to recognised provident funds.

Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or Commissioner may accord recognition to any provident fund which in his opinion satisfies the conditions specified under rule 4 in Part A of the said Fourth Schedule and the conditions, which the Board may specify by rules.

The first proviso to sub-rule (1) of the said rule 3 provides that in a case where recognition has been accorded to any provident fund on or before the 31st March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of said rule 4, and any other conditions which the Board may, by rules specify in this behalf, the recognition to such fund shall be withdrawn, if such fund does not satisfy such conditions on or before 31st March, 2009.

It is proposed to amend the said proviso to sub-rule (1), so as to extend the said time limit from 31st March, 2009 to 31st December, 2010.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 81 of the Bill seeks to amend the Thirteenth Schedule of the Income-tax Act.

The said Schedule specifies the list of articles or things, Excise classification, and the States for the purposes of availing of deductions in the case of the State of Himachal

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Pradesh and the State of Uttranchal under section 80-IC of the said Act.

It is proposed to substitute serial number 19 under Part B of the said Thirteenth Schedule which specifies certain new articles or things and Excise classification.

This amendment will take effect from 1st April, 2010.

Wealth-tax

Clause 82 of the Bill seeks to amend section 3 of the Wealth-tax Act, relating to charge of wealth tax.

Under the existing provisions contained in sub-section (2) of the said section, wealth-tax will be charged in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company, at the rate of one per cent. of the amount by which the net wealth exceeds fifteen lakh rupees.

It is proposed to insert a proviso after sub-section (2) to provide that for every assessment year commencing on and from the 1st day of April, 2010, wealth-tax will be charged in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company, at the rate of one per cent. of the amount by which the net wealth exceeds thirty lakh rupees.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 83 of the Bill seeks to amend section 44A of the Wealth tax Act relating to agreement for avoidance or relief of double taxation with respect to wealth-tax.

Under the existing provision, power has been conferred upon the Central Government to enter into an agreement with the Government of any reciprocating country outside India for granting of relief in respect of wealth-tax payable under the said Act and the corresponding law in force in that reciprocating foreign country.

It is proposed to amend the *Explanation* to the said section so as to confer power upon the Central Government to enter into agreement with the Government of any territory outside India, which may be notified by the Central Government, in addition to entering into agreement with foreign countries as provided in the said existing section 44A.

This amendment will take effect from the 1st October, 2009.

Customs

Clause 84 of the Bill seeks to insert a new section 26A in the Customs Act to provide for refund of import duty paid at the time of clearance for home consumption on imported goods capable of being easily identified if, the goods have been found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods, the goods are identified to the satisfaction of the officer of customs, the goods have been exported or the importer has relinquished his title to the goods, etc., so as to comply with the standards under the International Convention on the Simplification and Harmonisation of Customs Procedure (Revised Kyoto Convention).

Clause 85 of the Bill seeks to amend section 28F of the Customs Act with a view to provide that the Central Government may, by notification, authorise the Authority for Advance Ruling constituted under section 245-O of the Income-tax Act to act as an Authority under the said Act with the modification that a member from Indian Customs and Central Excise Service who is qualified to be a Member of the Board shall act as the member of the said authority and all the applications and proceedings pending before the authority constituted under the Customs Act shall be transferred to such notified authority from the date of authorisation. Sub-section (2*B*) of said section provides that the Authority constituted under sub-section (*1*) shall remain dormant on the issuance of a notification under sub-section (2A).

Clause 86 of the Bill seeks to amend section 130 of the Customs Act retrospectively with effect from 1st day of July, 2003 so as to make express provision empowering the High Court to condone the delay in filing of appeals beyond the period of one hundred and eighty days, as the Supreme Court and the High Courts in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all the appeals and review petition including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 87 of the Bill seeks to amend section 130A of the Customs Act retrospectively with effect from 1st day of July, 1999 so as to make express provision empowering the High Court to condone the delay in filing of application or memorandum of cross-objections, beyond the relevant period as specified in sub-sections (1) and (3), as the case may be, as the Supreme Court or the High Court in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all applications, appeals and review petitions including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 88 of the Bill seeks to amend sub-section (3) of section 137 of the Customs Act to,–

(a) empower the Central Government to make rules to provide for the manner of compounding of offences;

(b) exclude compounding of certain serious offences and in certain circumstances by inserting a proviso to that sub-section.

Clause 89 of the Bill seeks to amend section 156 of the Customs Act with a view to empower the Central Goverment to make rules regarding the manner of compounding.

Clause 90 of the Bill seeks to amend section 157 of the Customs Act with a view to empower the Board to make regulations to provide for the manner of,–

(i) (a) export of goods, relinquishment of title to the goods and abandoning to customs, and; (b) destruction or rendering the goods commercially valueless in the presence of proper officer.

(ii) filing the application for refund of duty and form thereof.

Clause 91 of the Bill seeks to give retrospective effect to the notification published vide G.S.R. No. 173(E), dated 17th March, 2009, appointing officers of customs under sub-section (*1*) of section 4 read with sub-section (1) of section 5 of the Customs Act and specifying their area of jurisdiction and to validate actions taken by such officers of customs on and from 9th day of May, 2000 as if the notification specifying their area of jurisdiction was in force at all material times.

Clause 92 of the Bill seeks to amend the notification number G.S.R. 260(E) dated the 1st May, 2006 retrospectively with effect from the 1st day of May, 2006 so as to,-

(a) allow the facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or CENVAT credit under CENVAT Credit Rules, 2004, in respect of materials which have been locally procured and have been used in the manufacture of goods exported under the Duty Free Import Authorisation scheme;

(b) provide that, the duty free replenishments in respect of which the facilities stated in (a) above have been availed, shall be used for the manufacture of dutiable goods in the factory of the exporter or in the factory of his supporting manufacturer even after the discharge of the export obligation;

(c) provide that the importer shall pay an amount equal to the additional duty of customs together with interest at the rate of fifteen per cent. per annum from the date of clearance of the said materials, in case,-

(*i*) materials are imported against an authorisation transferred by the Regional Authority, or

(*ii*) the imported materials are transferred with the permission of Regional Authority;

But no such amount shall be payable in respect of Authorizations issued from 1st May, 2006 till 31st March, 2007; and

(d) define the word 'dutiable goods' for the purposes of the said notification.

Customs Tariff

Clause 93 of the Bill seeks to amend section 3 of the Customs Tariff Act so as to provide that where the Central Government has fixed tariff value for an article produced or manufactured in India under sub-section (2) of section 3 of the Central Excise Act, 1944 for the collection of central excise duty, the value of a like imported article shall be deemed to be such tariff value.

Clause 94 of the Bill seeks to amend section 8B of the Customs Tariff Act retrospectively so as to extend the provisions of the Customs Act, 1962 and rules and regulations made thereunder including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to that section in respect of safeguard duty.

Clause 95 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 96 of the Bill seeks to amend section 8C of the Customs Tariff Act retrospectively so as to extend the machinery provisions of the Customs Act, 1962 including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to that section in respect of country specific safeguard duty.

Clause 97 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 98 of the Bill seeks to amend section 9 of the Customs Tariff Act retrospectively so as to extend the machinery provisions of the Customs Act, 1962 including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to that section in respect of countervailing duty on subsidised articles.

Clause 99 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 100 of the Bill seeks to amend section 9A of the Customs Tariff Act as follows,-

(*a*) sub-clause (*i*) seeks to insert the words "by an exporter or producer" in sub-section (*1*).

(*b*) sub-clause (*ii*) seeks to insert a new sub-section (6A) to provide that the margin of dumping in relation to an article exported by an exporter or producer shall be determined on the basis of records concerning normal value and export price maintained by such exporter or producer.

(*c*) sub-clause (*iii*) seeks to extend the machinery provisions of the Customs Act, 1962 including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to section 9A in respect of anti dumping duty with retrospective effect.

Clause 101 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 102 of the Bill seeks to amend Para (A) of Note 2 of SECTION XI of First Schedule to the Customs Tariff Act to provide that in respect of goods classifiable in chapters 50 to 55 or heading 5809 or 5902 and of a mixture of a two or more textile materials, the same shall be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material. But, when no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.

Excise

Clause 103 of the Bill seeks to amend section 9A of the Central Excise Act with a view to amend sub-section (*2*) thereof by inserting the words "and in such manner" and a proviso in sub-section (*2*) thereof so as to provide for the manner of compounding of the offences and further to provide that certain offences and circumstances wherein the offences shall not be compoundable.

Clause 104 of the Bill seeks to amend section 14A of the Central Excise Act by inserting the words "chartered accountant" in sub-section (1) and sub-section (2) and by adding an *Explanation* to said section so as to empower the Chief Commissioner of Central Excise to nominate chartered accountant or cost accountant for special Audit under this section and to explain the expression "chartered accountant".

Clause 105 of the Bill seeks to amend section 14AA of the Central Excise Act by inserting the words "chartered accountant" in sub-section (1) and sub-section (2) and by adding an *Explanation* to said section so as to empower the Chief Commissioner of Central Excise to nominate chartered accountant or cost accountant for special Audit under this section and to explain the expression "chartered accountant".

Clause 106 of the Bill proposes to amend section 23A of the Central Excise Act by amending the definition of "Authority" in clause (*e*) thereof.

Clause 107 of the Bill seeks to amend section 35G of the Central Excise Act retrospectively with effect from 1st day of July, 2003 so as to make express provision empowering the High Court to condone the delay in filing of appeals beyond the specified period of one hundred and eighty days, as the Supreme Court and the High Courts in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all the appeals and review petitions including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 108 of the Bill seeks to amend section 35H of Central Excise Act retrospectively with effect from 1st day of July, 1999 so as to make express provision empowering the High Court to condone the delay in filing of application or memorandum of cross-objections beyond the relevant period as prescribed in sub-sections (*1*) and (*3*), as the case may be, as the Supreme Court and the High Courts in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all the applications, appeals and review petitions including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 109 of the Bill seeks to amend section 37 of the Central Excise Act with a view to empower the Central Government to make rules regarding the manner of compounding.

Clause 110 of the Bill seeks to amend notification numbers G.S.R. 448(E), dated the 1st August, 1997, G.S.R. 503(E), dated the 30th August, 1997 and G.S.R. 130(E), dated the 10th March, 1998 with retrospective effect i.e. from the date of issue of respective notifications, so as to provide that the Central Government had the power to notify rates of excise duty under these notifications by virtue of powers conferred on it by the erstwhile section 3A of the Central Excise Act.

Excise Tariff

Clause 111 of the Bill seeks to amend the First Schedule to the Central Excise Tariff Act (*i*) by substituting Note 1 of Chapter 8 so as to specify that certain items shall not be covered under the said Chapter, (*ii*) by inserting Note 6 in Chapter 21 so as to declare the process of adding or mixing certain ingredients to betel nut as amounting to "manufacture" and (*iii*) by amending entry against tariff item 5801 22 10 so as to provide unit quantity and rate of duty therein.

Service Tax

Clause 112 of the Bill seeks to amend section 65 of the Finance Act, 1994 as under, -

sub-clause (*1*) seeks to amend clause (*19*) of the said section by redefining "Business Auxiliary Service" so as to provide that only those processes which result in the manufacture of excisable goods as defined in Central Excise Act shall be excluded from the purview of "Business Auxiliary Service".

sub-clause (*2*) seeks to amend clause (*101*) of the said section with a view to exclude sub-brokers from the purview of taxable service.

sub-clause (*3*) seeks to amend clause (*105*) of the said section as under, -

Item (*a*) thereof seeks to amend sub-clause (*zzzp*) so as to include imposition of service tax on transportation of goods by railways.

Item (*b*) thereof seeks to amend sub-clause (*zzzze*) for the purpose of fixing liability to pay service tax only on "provider" and not the "acquirer" of the right to use information technology software and therefore, it is proposed to substitute the word "acquiring" with the word "providing" with retrospective effect from 16th May, 2008, the date on which the service under sub-clause (*zzzze*) was included in Chapter V of Finance Act, 1994.

Item (*c*) thereof seeks to insert, –

sub-clause (*zzzzk*) to impose service tax on services provided or to be provided to any person, by any person, in relation to cosmetic surgery or plastic surgery other than the surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma.

sub-clause (*zzzzl*) to impose service tax on services provided or to be provided to any person, by any person, in relation to transport of coastal goods and goods through inland water.

sub-clause (*zzzzm*) to impose service tax on services provided or to be provided to any business entity, by any business entity, in relation to advice, consultancy or assistance in any branch of law excluding appearance before any court, tribunal or authority and the term 'business entity' has been defined to include association of persons, body of individuals, company or firm but not to include an individual.

Clause (B) proposes to make consequential amendments in section 66 for the purpose of bringing under its purview new services inserted vide sub-clauses (*zzzzk*), (*zzzzl*) and (*zzzzm*).

Clause (C) proposes to substitute section 84 with a view to align the appeal procedure of service tax with that of Central Excise. Therefore, it is proposed to do away with the power of revision by the Commissioner of Central Excise under section 84. By amendment to the said section, it is proposed to provide a procedure for referring the orders passed by any authority subordinate to the Commissioner of Central Excise to the Commissioner of Central Excise (Appeals), within the prescribed period, where any such direction is made by the Commissioner reviewing such orders. Further, it is proposed to include a saving clause by way of an explanation to provide that the amended provision shall not apply to any order passed by an authority subordinate to the Commissioner before the commencement of this Bill.

Clause (D) proposes to make consequential amendments in section 86 by omitting the words and figures "or section 84".

Clause (E) proposes to amend section 94 for empowering the Central Government to make rules with respect to the date for determination of rate of service tax and the place of provision of taxable service by inserting clause (*hhh*) in sub-section (2) thereof.

Clause (F) proposes to amend section 95 to empower the Central Government to remove difficulties by making an order.

Clause (G) proposes to validate certain actions taken or anything done by virtue of the provisions of items (*v*) and (*vi*) of sub-clause (*zzzze*) of clause (*105*) of section 65 retrospectively with effect from 16th day of May, 2008.

Clause (H) proposes to validate the exemption given to a person providing specified taxable services to goods transport agency by the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 10(E), dated 5th January, 2009, retrospectively with effect from 1st January, 2005.

This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause (I) proposes to amend section 96A by amending the definition of "Authority" in clause (*d*) thereof.

Miscellaneous

Clause 113 of the Bill seeks to amend section 13 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

The existing provisions contained in sub-section (1) of section 13 of the said Act provide that notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax or income, profits or gains, no income-tax or any other tax shall be payable by the administrator in relation to the specified undertaking up to 31st March, 2009 in respect of any income, profit or gains derived, or any amount received in relation to the specified undertaking.

It is proposed to amend sub-section (1) of the said section so as to extend the exemption from the period beginning on the 1st April, 2009 to 31st March, 2014.

This amendment will take effect retrospectively from 1st April, 2009.

Clause 114 of the Bill seeks to insert new section 113A in Chapter VII of the Finance (No. 2) Act, 2004 relating to Securities Transaction Tax.

The existing provisions contained in the said Chapter provides for levy of a tax on taxable securities transactions entered in a recognised stock exchange payable by the purchaser from the date on which this Chapter comes into force by way of notification in the Official Gazette by the Central Government.

It is proposed to insert a new section in the said Chapter so as to provide that the provisions of the said Chapter shall, notwithstanding anything contained in this Chapter, not apply to "taxable securities transactions" entered into by any person for, or on behalf of, the New Pension System Trust.

This amendment will take effect from 1st October, 2009.

Clause 115 of the Bill seeks to insert a new section 121A to the Finance Act, 2008 which relates to provisions of Chapter VII not to apply to commodities transaction tax.

The existing Chapter VII provides for provisions relating to commodities transactions tax. It is proposed to insert new section 121A so as to provide that the provisions of Chapter VII relating to taxable commodities transaction entered on or after the 1st April, 2009 shall not apply.

The proposed amendment will take effect retrospectively from 1st April, 2009.

*Clause*116 of the Bill seeks to repeal the Finance Act, 2009 (26 of 2009).

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend section 2 of the Income-tax relating to definitions.

The proposed amendment seeks to insert a new clause (22AAA) in the said section to define an "electoral trust" to mean a trust so approved by the Board in accordance with the scheme made in this regard by the central Government.

Accordingly, it is proposed to empower the Central Government to frame the scheme in this regard for the purposes of this clause.

Clause 8 of the Bill seeks to insert a new section 13B which contains provisions relating to voluntary contributions received by electoral trusts.

The proposed new section provides that any voluntary contribution received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if-

(a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year alongwith the surplus, if any, brought forward from any earlier previous year; and

(b) such electoral trust functions in accordance with the rules made by the Central Government.

Accordingly, it is proposed to empower the Central Government to make rules in this regard for the purposes of this section.

Clause 9 of the Bill seeks to amend section 17 of the Income-tax Act which defines the expressions "salary", "perquisite" and "profits in lieu of salary".

The proposed amendment seeks to substitute sub-clause (vi) to clause (2) of section 17 so as to provide that perquisite will include, the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee. It is also proposed to insert clause (vii) so as to provide that perquisite will include the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees. It is further proposed to insert clause (viii) so as to provide that perquisite will include the value of any other fringe benefit or amenity as may be prescribed.

The value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from the assessee. The "fair market value" means the value deterrriined in accordance with the method as may be prescribed.

It is, therefore, proposed to empower the Board to make rules, -

(i) prescribing the method in accordance with which the fair market value will be determined; and

(ii) providing for the value of any other fringe benefit or amenity.

Clause 13 of the Bill seeks to insert a new section 35AD in the Income-tax Act relating to deductions in respect of expenditure on specified business.

The proposed new section provides that an assessee shall be allowed a deduction in respect of the whole of any expenditure of capital nature incurred for the specified business carried on by him during the previous year in which such expenditure is incurred by him.

The said section 35AD applies to specified business, which fulfills the conditions specified therein and also any other conditions as may be prescribed by the Board.

Accordingly, it is proposed to empower the Board to make the rules providing for any other conditions to be fulfilled for the purpose of the said section.

Clause 26 of the Bill seeks to amend section 56 of the Income-tax Act relating to taxation of income from other sources.

The proposed amendment seeks to provide, inter alia, that where an individual or a Hindu undivided family receives from any person on or after the 1st day of October, 2009, any property other than immovable property without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, then the whole of the aggregate fair market value of such property shall be taxed in the hands of the recipient. It further provides that, if such property is received for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration shall be taxed in the hands of the recipient.

The Explanation to the proposed section provides that the "fair market value" of a property other than an immovable property means the value determined in accordance with the method as may be prescribed.

It is, therefore, proposed to empower the Board to make rules providing for methods for determining the fair market value of such property.

Clause 39 of the Bill seeks to substitute section 90 of the Income tax Act relating to agreement with foreign countries or specified territories.

The proposed amendment seeks to substitute section 90 of the Income tax Act, so as to empower the Central Government to enter into an agreement with the Government of any country outside India or a specified territory outside India, *inter alia*, for avoidance of double taxation of income. For this purpose, the Central Government may, by notification in the Official Gazzette, make such provisions as may be necessary for implementing the said agreement.

It is, therefore, proposed to empower the Central Government to notify such provisions as necessary for implementing the said agreement.

Sub-section (3) of the said section provides that any term used but not defined in the Act or in the agreement referred to in the proposed sub-section (1) shall, unless the context otherwise requires and is not inconsistent with the provisions of the Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazettee in this behalf.

It is, therefore, proposed to empower the Central Government to notify certain terms for the purpose of aforesaid section.

Explanation 2 of the proposed section provides that "specified territory" means any area outside India which may be notified as such by the Central Government.

Accordingly, it is proposed to empower the Central Government to notify the "specified territory" for the purposes of the said section.

Clause 41 of the Bill seeks to insert a new section 92CB of the Income-tax Act relating to power of Board to make safe harbour rules.

Sub-sectin (1) of the said sectionprovides that the determination of arm's length price under section 92C or section 92CA shall be subject to safe harbour rules. Accordingly, sub-sectino (2) of said section confers power upon the Board to make the safe harbour rules.

Clause 55 of the Bill seeks to insert a new section 144C relating to reference to Dispute Resolution Panel.

The propsed new section provides for a dispute resolution mechanism for the purpose of speedy disposal of the objections raised by the eligible assessee under this new section.

Accordingly, it is proposed to empower the Board to make rules for the efficient functioning of the Dispute Resolution Panel for expeditious disposal of the objections filed by the eligible assessee.

Clause 60 of the Bill seeks to amend section 194C relating to payments to contractors.

The proposed sub-section (6) of the said section provides that no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

It is proposed to empower the Board to make rules providing for the form and the time for furnishing the particulars by the person responsible for paying or crediting aforesaid sum to the account of the contractor during the course of the business of plying, hiring or leasing goods carriages.

Clause 63 of the Bill seeks to amend section 200 of the Income-tax Act relating to duty of person deducting tax.

The existing provisions contained in sub-section (3) of the said section provide that any person deducting any sum under the said sub-section shall after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare the quarterly statement for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year.

The proposed amendment seeks to empower the Board to make rules prescribing the statements and the period of such statements which the person responsible under sub-section (3) shall furnish.

Clause 67 of the Bill seeks to amend section 206A of the Income-tax Act relating to furnishing of quarterly return in respect of payment of Interest to residents without deduction of tax.

Sub-sections (1) and (2) of the said section proposed to insert the words "or such statements for such periods as may be prescribed" after the words quarterly returns as provided in the said section.

The proposed amendment seeks to empower the Board to make rules prescribing the statements and the period of such statements which the person responsible under the said section shall furnish.

Clause 69 of the Bill seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

The proposed amendment seeks to empower the Board to make rules providing for the statements and the period of such statements which the person collecting tax from the business of trading in alcoholic liquor, forest produce, scrap, etc shall furnish.

Clause 76 of the Bill seeks to amend section 282 of the Income-tax Act relating to service of notice generally.

Clause (d) of the said section 282 confers power upon the Board to make rules providing for any other means of transmission of documents in addition to the means of transmission provided therein for the purpose of service of a notice or summon etc.

Sub-section (2) of the said section also empowers the Board to make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in the said sections may be delivered or transmitted to the person therein named.

Clause 83 of the Bill seeks to substitute the words "any country outside India or any territory outside India" for the words "any country" in the Explanation to section 44A of the Wealth-tax Act which defines the expression "reciprocating country".

Section 44A empowers the Central Government to enter into an agreement with the Government of any reciprocating country. It further provides that the Central Government may, by notification in the Official Gazette, make necessary provisions for implementing such agreement with the reciprocating country.

It is, therefore, proposed to empower the Central Government to make rules necessary for implementing the said agreement.

Explanation to section 44A of the Wealth-tax Act provides that Central Government may notify "reciprocating countries" which means any country outside India or any territory outside India.

It is, therefore, proposed to empower the Central Government to notify the "reciprocating country" for the purposes of the said section.

Clause 84 of the Bill proposes to insert a new section 26A in the Customs Act relating to refund of import duty in certain cases. Clause (d) of sub-section (1) of the said section empowers the Board to make regulations for laying down the manner of export of goods, relinquishment of title to the goods and abandoning to customs, and destruction or rendering of imported goods commercially valueless in the presence of proper officer and sub-section (2) of the said section empowers the Board to make regulations for laying down the form and manner of making an application for refund of such import duty.

Clause 88 of the Bill proposes to amend section 137 of the Customs Act. Sub-section (3) of the said section seeks to empower the Central Government to make rules to provide for manner of compounding of offences.

Clause 103 of the Bill proposes to amend section 9A of the Central Excise Act. Subsection (2) of the said section seeks to empower the Central Government to make rules to provide for the manner of compounding of offences.

Clause 112 of the Bill proposes to amend Chapter V of the Finance Act, 1994. Subclause (E) of said clause proposes to amend section 94 which empowers the Central Government to make rules for the date for determination of rate of service tax and the place of provision of taxable service.

The matters in respect of which notifications may be issued or rules or regulations may be made in accordance with the provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

BILL

to give effect to the financial proposals of the Central Government
for the financial year 2009-2010.

(Shri Pranab Mukherjee,
Minister of Finance.)