

FINANCE ACT, 2001

(ACT NO. 14 OF 2001)

[11th May, 2001]

to give effect to the financial proposals of the Central Government for the financial year 2001-2002.

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

CHAPTER I

PRELIMINARY

1. Short title and commencement.

(1) This Act may be called the Finance Act, 2001

(2) Save as otherwise provided in this Act, sections 2 to 101 shall be deemed to have come into force on the 1st day of April, 2001.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax - (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2001, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act) shall be increased,-

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraph E of that Part applies, by a surcharge, 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 six hundred rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,-

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

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

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

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

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

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

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

Provided that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 shall be increased by a surcharge for purposes of the Union or surcharge 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, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased,-

(a) by a surcharge for purposes of the Union, calculated,-

(i) in the case of a co-operative society, a firm and a local authority, at the rate of twelve per cent. of such income-tax;

(ii) in the case of a person other than a company, a co-operative society, a firm and a local authority,-

(A) at the rate of twelve per cent. of such income-tax where the total income exceeds sixty thousand rupees but does not exceed one lakh fifty thousand rupees; or

(B) at the rate of seventeen per cent. of such income-tax where the total income exceeds one lakh fifty thousand rupees; and

(b) by a surcharge calculated at the rate of thirteen per cent. of such income-tax in the case of a domestic company.

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

Provided that no surcharge shall be payable by a foreign company.

(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 deduction shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194I, 194J, 194K, 194L, 196A, 196B, 196C and 196D of the Income-tax Act, the deduction shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of two per cent. of such tax:

Provided that no surcharge shall be payable by a foreign company.

(7) In cases in which tax has to be collected under the proviso to section 194B or under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rates specified in Part II of the First Schedule, as the case may be, and shall be increased, by a surcharge for purposes of the Union, calculated in each case in the manner provided therein.

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

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

Provided further that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

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

Provided that no surcharge shall be payable by a foreign company.

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

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees

of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

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

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

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

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

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

(10) 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, 2001, 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 in 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. Amendment of section 2. - In section 2 of the Income-tax Act,-

(a) after clause (12), the following clause shall be inserted with effect from the 1st day of June, 2001, namely:-

(12A) "books or books of account" includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;

(b) after clause (22A), the following clause shall be inserted with effect from the 1st day of June, 2001, namely:-

'(22AA) "document" includes an electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000;'

(c) in clause (24), in sub-clause (ix), the following Explanation shall be inserted with effect from the 1st day of April, 2002, namely:-

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

(i) "lottery" includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(ii) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;'

(d) after clause (28B), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:-

'(28BB) "insurer" means an insurer being an Indian insurance company, as defined under clause (7A) of section 2 of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;'

4. Amendment of section 9. - In section 9 of the Income-tax Act, in sub-section (1), in clause (vi), in Explanation 2, with effect from the 1st day of April, 2002,-

(i) after clause (iv), the following clause shall be inserted, namely:-

"(iva) the use or right to use, any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;";

(ii) in clause (vi), for the words, brackets and figures "sub-clauses (i) to (v)", the words, brackets, figures and letter "sub-clauses (i) to (iv), (iva) and (v)" shall be substituted.

5. Amendment of section 10. - In section 10 of the Income-tax Act,-

(a) in clause (10C),-

(i) after sub-clause (vii), the following sub-clause shall be inserted, namely:-

"(viiia) any State Government; or";

(ii) after sub-clause (viiia) as so inserted, the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:-

"(viiib) the Central Government; or";

(b) in clause (15), with effect from the 1st day of April, 2002,-

(i) in sub-clause (iv),-

(A) for item (a), the following item shall be substituted, namely:-

"(a) by Government or a local authority on moneys borrowed by it before the 1st day of June, 2001 from, or debts owed by it before the 1st day of June, 2001 to, sources outside India;"

(B) in item (b), for the words "a loan agreement entered into with any such financial institution", the words, figures and letters "a loan agreement entered into before the 1st day of June, 2001 with any such financial institution" shall be substituted;

(C) in item (c), for the words "moneys borrowed or debt incurred by it", the words, figures and letters "moneys borrowed or debt incurred by it before the 1st day of June, 2001" shall be substituted;

(D) in items (d) and (e), for the words "any moneys borrowed by it from sources outside India", the words, figures and letters "any moneys borrowed by it from sources outside India before the 1st day of June, 2001" shall be substituted;

(E) in item (f), for the words "a loan agreement approved by the Central Government", the words, figures and letters "a loan agreement approved by the Central Government before the 1st day of June, 2001" shall be substituted;

(ii) for Explanation 1A to sub-clause (iv), the following Explanation shall be substituted, namely:-

'Explanation 1A.-For the purposes of this sub-clause, the expression "interest" shall not include interest paid on delayed payment of loan or on default if it is in excess of two per cent. per annum over the rate of interest payable in terms of such loan.'

(c) in clause (23AAB), with effect from the 1st day of April, 2002,-

(i) in the opening portion, for the words "under a pension scheme", the words "or any other insurer under a pension scheme" shall be substituted;

(ii) in sub-clause (ii), after the words "the Controller of Insurance", the words, brackets and figures "or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), as the case may be" shall be inserted;

(d) after clause (23BBC), the following clause shall be inserted, namely:-

'(23BBD) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 (21 of 1860) for three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004;'

(23BBE) any income of the Insurance Regulatory and Development Authority established under sub-section (1) section 3 of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(e) in clause (23C),-

(a) in the third proviso,-

(i) in clause (a), after the words "the objects for which it is established", the words, figures and letters "and in a case where more than twenty-five per cent. of its income is accumulated on or after the 1st day of April, 2001, the period of accumulation of the amount exceeding twenty-five per cent. of its income shall in no case exceed five years" shall be inserted with effect from the 1st day of April, 2002;

(ii) in clause (b),-

(A) after sub-clause (i), the following sub-clause shall be inserted, namely:-

"(ia) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998;"

(B) in sub-clause (iii), after the word, brackets and figure "sub-clause (i)", the words, brackets, figure and letter "and sub-clause (ia)" shall be inserted;

(b) after the eighth proviso, the following proviso shall be inserted, with effect from the 1st day of April, 2002, namely:-

"Provided also that where the total receipts of the fund or institution referred to in sub-clause (iv) or of any trust or institution referred to in sub-clause (v) or of any university or other educational institution referred to in sub-clause (vi) or of any hospital or other institution referred to in sub-clause (via) exceed one crore rupees in any previous year, the fund or trust or institution or university or other educational institution or hospital or other institution, as the case may be, shall-

(i) publish its accounts in a local newspaper; and

(ii) furnish along with the application prescribed in the first proviso to this clause, the copy of the local newspaper in which such accounts have been published;"

(f) in clause (23FB),-

(a) the Explanation shall be numbered as Explanation 1 thereof, and in Explanation 1 as so numbered, in clause (b), for sub-clause (i), the following sub-clause shall be substituted, namely:-

"(i) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1098) or operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);" ;

(b) after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:-

" Explanation 2.-For the removal of doubts, it is hereby declared that the income of a venture capital company or venture capital fund shall continue to be exempt if the shares of the venture capital undertaking, in which the venture capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock exchange in India;" ;

(g) in clause (23G), with effect from the 1st day of April, 2002,-

(a) after the words "an infrastructure capital fund or an infrastructure capital company", the words "or a co-operative bank" shall be inserted;

(b) for the words, brackets and figures "any enterprise wholly engaged in the business of (i) developing, (ii) maintaining and operating, or (iii) developing, maintaining and operating any infrastructure facility", the words, brackets, figures and letters "any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or a housing project referred to in sub-section(10) of section 80-IB" shall be substituted;

(c) in Explanation 1,-

(i) clause (c) shall be omitted;

(ii) after clause (d), the following clauses shall be inserted, namely:-

'(e) "co-operative bank" shall have the meaning assigned to it in clause (dd) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961);

(f) "interest" includes any fee or commission received by a financial institution for giving any guarantee to, or providing credit rating in respect of, an enterprise which has been approved by the Central Government for the purposes of this clause.');

(h) in clause (33), after sub-clause (iii), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:-

"Provided that this clause shall not apply to any income arising from transfer of units of the Unit Trust of India or of a mutual fund, as the case may be."

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

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

(i) in the second proviso, for the words "undertaking was first set up", the words "undertaking began to manufacture or produce such articles or things or computer software" shall be substituted;

(ii) the third proviso shall be omitted with effect from the 1st day of April, 2002;

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

"(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.";

(c) after sub-section (9),-

(i) below Explanation 1, the following proviso shall be inserted, namely :-

"provided that nothing contained in this Explanation shall apply to any change in the shareholding of the company as a result of--

(a) its becoming a company in which the public are substantially interested; or

(b) disinvestments of its equity shares by any venture capital company or venture capital fund.";

(ii) in Explanation 2, in clause (iv), for the words "in respect of export", the words "in respect of export by the undertaking" shall be substituted;

(iii) after Explanation 2, the following Explanation shall be inserted at the end, namely:-

" Explanation 3.-For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India."

7. Amendment of section 10B. - In section 10B of the Income-tax Act,-

(a) in sub-section (1), the second proviso shall be omitted with effect from the 1st day of April, 2002;

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

"(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.";

(c) after sub-section (9),-

(i) below Explanation 1, the following proviso shall be inserted, namely-

"Provided that nothing contained in this Explanation shall apply to any change in the shareholding of the company as a result of-

(a) its becoming a company in which the public are substantially interested; or

(b) disinvestments of its equity shares by any venture capital company or venture capital fund."

(ii) in Explanation 2, in clause (iii), for the words "in respect of export", the words "in respect of export by the undertaking" shall be substituted;

(iii) after Explanation 2, the following Explanation shall be inserted at the end, namely:-

" Explanation 3.-For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India."

8. Insertion of new section 10BB. -- After section 10B of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:-

'10BB. Meaning of computer programmes in certain cases. -

The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000 (10 of 2000), shall be

construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.'

9. Amendment of section 11. - In section 11 of the Income-tax Act, in sub-section (2), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2002, namely:-

'Provided further that in respect of any income accumulated or set apart on or after the 1st day of April, 2001, the provisions of this sub-section shall have effect as if for the words "ten years" at both the places where they occur, the words "five years" had been substituted.'

10. Amendment of section 12A. - In section 12A of the Income-tax Act, after clause (b), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:-

"(c) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds ten lakh rupees in any previous year, the trust or institution-

(i) publishes its accounts in a local newspaper, before the due date for furnishing the return of income under sub-section (4A) of section 139; and

(ii) furnishes a copy of such newspaper along with such return."

11. Insertion of new section 14A - After section 14 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:-

"14A. Expenditure incurred in relation to income not includible in total income.- For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act."

12.. - Amendment of section 16. - In section 16 of the Income-tax Act, for clause (ii), the following clause shall be substituted with effect from the 1st day of April, 2002, namely:-

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

(a) does not exceed one lakh fifty thousand rupees, a deduction of a sum equal to thirty-three and on-third per cent of the salary or thirty thousand rupees whichever is less;

(b) exceeds one lakh fifty thousand rupees but does not exceed three lakh rupees, a deduction of a sum of twenty-five thousand rupees;

(c) exceeds three lakh rupees but does not exceed five lakh rupees, a deduction of a sum of twenty thousand rupees;

(ii) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;"

13. Amendment of section 17. - In section 17 of the Income-tax Act,-

(a) in clause (2),-

(i) in sub-clause (iii),-

(A) in item (c), for the words "twenty-four thousand rupees", the words "fifty thousand rupees" shall be substituted with effect from the 1st day of April, 2002;

(B) in the proviso, for the words "the Employees' Stock Option Plan or Scheme of the said company", the words "any Employees' Stock Option plan or Scheme of the company, offered to such employees in accordance with the guidelines issued in this behalf by the Central Government" shall be substituted;

(ii) after sub-clause (v), the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:-

"(vi) the value of any other fringe benefit or amenity as may be prescribed.";

(b) in clause (3), after sub-clause (ii) and the Explanation relating thereto, the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:-

"(iii) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person-

(A) before his joining any employment with that person; or

(B) after cessation of his employment with that person.".

14. Substitution of new section for section 23. - For section 23 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:-

"23. Annual value how determined. - (1) For the purposes of section 22, the annual value of any property shall be deemed to be-

(a) the sum for which the property might reasonably be expected to let from year to year; or

(b) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or

(c) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable:

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.-For the purposes of clause (b) or clause (c) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

(2) Where the property consists of a house or part of a house which-

(a) is in the occupation of the owner for the purposes of his own residence; or

(b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house or part of the house shall be taken to be nil.

(3) The provisions of sub-section (2) shall not apply if-

(a) the house or part of the house is actually let during the whole or any part of the previous year; or

(b) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than one house-

(a) the provisions of that sub-section shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf;

(b) the annual value of the house or houses, other than the house in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let."

15. Substitution of new section for section 24. - For section 24 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:-

'24. Deductions from income from house property. - Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:-

(a) a sum equal to thirty per cent. of the annual value;

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23; the amount of deduction shall not exceed thirty thousand rupees:

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st day of April, 2003, the amount of deduction under this clause shall not exceed one lakh fifty thousand rupees.

Explanation.- Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years.'

16. Amendment of section 25. - In section 25 of the Income-tax Act, the words "annual charge or" shall be omitted with effect from the 1st day of April, 2002.

17. Amendment of section 25A - In section 25A of the Income-tax Act, with effect from the 1st day of April, 2002,-

(a) after the words, brackets and figures "under clause (x) of sub-section (1) of section 24", the words and figures "as it stood immediately before its substitution by the Finance Act, 2001" shall be inserted;

(b) after the words and figures "under section 23 or section 24", the words and figures "as it stood immediately before its substitution by the Finance Act, 2001" shall be inserted.

18. Insertion of new section 25AA. -- After section 25A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:-

'25AA. Unrealised rent received subsequently to be charged to income-tax.- Where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year.'

19. Amendment of section 25B. - In section 25B of the Income-tax Act, for the words "a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property", the words "a sum equal to thirty per cent. Of such amount" shall be substituted with effect from the 1st day of April, 2002.

20. Amendment of section 27. - In section 27 of the Income-tax Act, clauses (iv) and (v) shall be omitted with effect from the 1st day of April, 2002.

21. Amendment of section 32. - In section 32 of the Income-tax Act, with effect from the 1st day of April, 2002,-

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

(A) in the first proviso, in clause (a), after the figures, letters and words "28th day of February, 1975", the words, figures and letters "but before the 1st day of April, 2001" shall be inserted;

(B) after Explanation 4, the following Explanation, shall be inserted, namely :-

" Explanation 5.-For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;"

(b) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years."

22. Amendment of section 33AB. - In section 33AB of the Income-tax Act, in sub-section (1), for the words "a sum equal to twenty per cent. of the profits", the words "a sum equal to forty per cent. of the profits" shall be substituted with effect from the 1st day of April, 2002.

23. Amendment of section 35. - In section 35 of the Income-tax Act, with effect from the 1st day of April, 2002,-

(a) in sub-section (2AA),-

(i) for the words "University or an Indian Institute of Technology", the words "University or an Indian Institute of Technology or a specified person" shall be substituted;

(ii) in the Explanation, after clause (c), the following clause shall be inserted, namely:-

'(d) "specified person" means such person as is approved by the prescribed authority.'

(b) in sub-section (2AB),-

(i) in clause (1), for the words "engaged in the business of", the words "engaged in the business of bio-technology or in the business of" shall be substituted;

(ii) after clause (1), the following Explanation shall be inserted, namely:-

'Explanation.-For the purposes of this clause, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).'

24. Insertion of new section 35DDA. - After section 35DD of the Income-tax Act, the following section shall be inserted, namely:-

"35DDA. Amortisation of expenditure incurred under voluntary retirement scheme.

(1) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years:

(2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act."

25. Amendment of Section 36.- In section 36, in sub-section (1), in clause (vii), after the proviso, 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: For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee."

26. Amendment of section 43- In section 43 of the Income-tax Act, with effect from the 1st day of April, 2002-

(a) in clause (1), after Explanation 11, the following Explanation shall be inserted, namely;-

"Explanation 12 : Where any capital asset is acquired by the assessee under a scheme for corporatisation of a recognized stock exchange in India, approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation.";

(b) in clause (6), after Explanation 4, the following Explanation shall be inserted, namely;-

"Explanation 5 : Where in a previous year, any asset forming part of a block of assets is transferred by a recognized stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the written down value of the block of assets in the case of such company shall be the written down value of the transferred assets immediately before such transfer."

27. Amendment of section 43B. - In section 43B of the Income-tax Act, with effect from the 1st day of April, 2002,-

(i) in clause (e), the word "or" shall be inserted at the end;

(ii) after clause (e), the following clause shall be inserted, namely:-

"(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee,";

(iii) in the first proviso, after the word, brackets and letter "clause (e)", the words, brackets and letter "or clause (f)" shall be inserted;

(iv) after Explanation 3A, the following Explanation shall be inserted, namely:-

"Explanation 3B.-For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (f) of this section is allowed in computing the income, referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him."

28. Amendment of section 44AB. - In section 44AB of the Income-tax Act,-

(a) in the second proviso, after the words "and a further report", the words "by an accountant" shall be inserted;

(b) in the Explanation occurring at the end, for clause (ii), the following clause shall be substituted, namely:-

'(ii) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means the 31st day of October of the assessment year.'

29. Amendment of section 47. - In section 47 of the Income-tax Act,-

(a) in clause (iii), in the proviso, for the words "the Employees' Stock Option Plan or Scheme", the words "any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf" shall be substituted;

(b) in clause (viiia), for the word "shares", the words "Global Depository Receipts" shall be substituted with effect from the 1st day of April, 2002.

(c) in clause (xiii), with effect from the 1st day of April 2002, -

(i) for the portion beginning with the words "where a firm is succeeded" and ending with the words "intangible asset to the company", the following shall be substituted, namely :-

"any transfer of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, or any transfer of a capital asset to a company in the course of corporatisation of a recognized stock exchange in India as a result of which an association of persons or body of individuals is succeeded by such company:"

(ii) in the proviso,-

(A) in clause (a), after the words "liabilities of the firm", the words "or of the association of persons or body of individuals" shall be inserted;

(B) after clause (d), the following clause shall be inserted, namely :-

'(e) the corporatisation of a recognized stock exchange in India is carried out in accordance with a scheme for corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).'

30. Amendment of section 49. - In section 49 of the Income-tax Act, after sub-section (2A), the following sub-section shall be inserted, namely:-

"(2AA) Where the capital gain arises from the transfer of the shares, debentures or warrants, the value of which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such shares, debentures or warrants shall be the value under that clause."

31. Amendment of section 54EC. - In section 54EC of the Income-tax Act, in the Explanation occurring at the end, for clause (b), the following clause shall be substituted with effect from the 1st day of April, 2002, namely:-

'(b) "long-term specified asset" means any bond redeemable after three years, issued,-

(i) on or after the 1st day of April, 2000, by the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981) or by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988);

(ii) on or after the 1st day of April, 2001, by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956).'

32. Insertion of new section 54ED. - After section 54EC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:-

'54ED. Capital gain on transfer of certain listed securities or unit, not to be charged in certain cases. - (1) Where the capital gain arises from the transfer of a long-term capital asset, being listed securities or unit (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, within a period of six months after the date of such transfer, invested the whole or any part of the capital gain in acquiring equity shares forming part of an eligible issue of capital (such equity shares being hereafter in this section referred to as the specified equity shares), the said capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,-

(a) if the cost of the specified equity shares is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the specified equity shares is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the specified equity shares acquired bears to the whole of the capital gain shall not be charged under section 45.

Explanation.-For the purposes of this sub-section-

(i) "eligible issue of capital" means an issue of equity shares which satisfies the following conditions, namely:-

(a) the issue is made by a public company formed and registered in India;

(b) the shares forming part of the issue are offered for subscription to the public;

(ii) "listed securities" shall have the same meaning as in clause (a) of the Explanation to sub-section (1) of section 112;

(iii) "unit" shall have the meaning assigned to it in clause (b) of the Explanation to section 115AB.

(2) Where the specified equity shares are sold or otherwise transferred within a period of one year from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified equity shares as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such equity shares are sold or otherwise transferred.

(3) Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.'

33. Amendment of section 54H. - In section 54H of the Income-tax Act, for the figures and letters "54EA, 54EB", the figures and letters "54EC" shall be substituted.

34. Amendment of section 55. - In section 55 of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2002,-

(a) in clause (a), after the words "goodwill of a business", the words "or a trade mark or brand name associated with a business" shall be inserted;

(b) after clause (aa), the following clause shall be inserted, namely:-

"(ab) in relation to a capital asset, being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) shall be the cost of acquisition of his original membership of the exchange;"

35. Amendment of section 72A. - In section 72A of the Income-tax Act, in sub-section (7), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:-

'(aa) "industrial undertaking" means any undertaking which is engaged in-

(i) the manufacture or processing of goods; or

(ii) the manufacture of computer software; or

(iii) the business of generation or distribution of electricity or any other form of power; or

(iv) mining; or

(v) the construction of ships, aircrafts or rail systems;'

36. Amendment of section 80CCC. - In section 80CCC of the Income-tax Act, in sub-section (1), after the words "Life Insurance Corporation of India", the words "or any other insurer" shall be inserted with effect from the 1st day of April, 2002.

37. Amendment of section 80D. - In section 80D of the Income-tax Act, in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2002, namely:-

"Provided that such insurance shall be in accordance with a scheme framed in this behalf by-

(a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government in this behalf; or

(b) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)."

38. Amendment of section 80DD. - In section 80DD of the Income-tax Act, in sub-section (1), in clause (b), for the words "Unit Trust of India", the words "any other insurer or Unit Trust of India" shall be substituted with effect from the 1st day of April, 2002.

39. Amendment of section 80G. - In section 80G of the Income-tax Act, with effect from the 1st day of April, 2002,-

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letters "or sub-clause (iihi)", the words, brackets, figures and letters "or sub-clause (iihj)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iihi), the following sub-clause shall be inserted, namely:-

"(iihj) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); or"

40. Amendment of section 80GG. - In section 80GG of the Income-tax Act, in the proviso, in clause (ii), for the words, brackets, figures and letters "under sub-clause (i) of clause (a) or, as the case may be, clause (b) of sub-section (2) of section 23", the words, brackets, letters and figures "under clause (a) of sub-section (2) or, as the case may be, clause (a) of sub-section (4) of section 23" shall be substituted with effect from the 1st day of April, 2002.

41. Amendment of Section 80HHC.- In section 80HHC of the Income-tax Act, in sub-section (1B), for clauses (ii),(iii) and (iv), the following clauses shall be substituted with effect from the 1st day of April, 2002, namely:-

"(ii) seventy per cent. thereof for an assessment year beginning on the 1st day of April, 2002;

(iii) fifty per cent. thereof for an assessment year beginning on the 1st day of April, 2003;

(iv) thirty per cent. thereof for an assessment year beginning on the 1st day of April, 2004."

42. Amendment of section 80HHE. - In section 80HHE of the Income-tax Act,-

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

" Explanation.-For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India."

(b) in sub-section (1B), for clause (ii), (iii), (iv), the following clauses shall be substituted with effect from the 1st day of April, 2002, namely :-

"(ii) seventy per cent. thereof for an assessment year beginning on the 1st day of April, 2002;

(iii) fifty per cent. thereof for an assessment year beginning on the 1st day of April, 2003;

(iv) thirty per cent. thereof for an assessment year beginning on the 1st day of April, 2004."

43. Amendment of Section 80HHF.- In section 80HHF of the Income-tax Act, in sub-section (1A), for clauses (ii),(iii) and (iv), the following clauses shall be substituted with effect from the 1st day of April, 2002, namely:-

"(ii) seventy per cent. thereof for an assessment year beginning on the 1st day of April, 2002;

(iii) fifty per cent. thereof for an assessment year beginning on the 1st day of April, 2003;

(iv) thirty per cent. thereof for an assessment year beginning on the 1st day of April, 2004."

44. Amendment of section 80-IA. - In section 80-IA of the Income-tax Act,-

(a) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 2002, namely:-

"(1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent. of profits and gains derived from such business for ten consecutive assessment years.";

(b) in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2002, namely:-

'Provided that where the assessee develops or operates and maintains or develops, operates and maintains any infrastructure facility referred to in clause (a) or clause (b) or clause (c) of the Explanation to clause (i) of sub-section (4), the provisions of this sub-section shall have effect as if for the words "fifteen years", the words "twenty years" had been substituted.';

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

"(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the deduction in computing the total income of an undertaking providing telecommunication services, specified in clause (ii) of sub-section (4), shall be hundred per cent. of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent. of such profits and gains for further five assessment years.";

(d) in sub-section (3), for the words "industrial undertaking" wherever they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002;

(e) in sub-section (4),-

(i) in clause (i),-

(A) for the words, brackets and figures "of (i) developing, (ii) maintaining and operating or (iii) developing, maintaining and operating" , the words, brackets and figures "of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining" shall be substituted with effect from the 1st day of April, 2002;

(B) for sub-clause (b), the following sub-clause shall be substituted with effect from the 1st day of April, 2002, namely:-

"(b) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining a new infrastructure facility;"

(ii) for the Explanation, the following Explanation shall be substituted with effect from the 1st day of April, 2002, namely:-

' Explanation.-For the purposes of this clause, "infrastructure facility" means-

(a) a road including toll road, a bridge or a rail system;

(b) a highway project including housing or other activities being an integral part of the highway project;

(c) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(d) a port, airport, inland waterway or inland port.';

(iii) for clause (ii), the following clause shall be substituted, namely:-

"(ii) any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services on or after the 1st day of April, 1995, but on or before the 31st day of March, 2003;"

(iv) in clause (iii),-

(A) after the words "an industrial park", the words "or special economic zone" shall be inserted with effect from the 1st day of April, 2002;

(B) for the words, figures and letters "the 31st day of March, 2002", the words, figures and letters "the 31st day of March, 2006" shall be substituted;

(v) in clause (iv),-

(A) for the words "industrial undertaking" at both the places where they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002;

(B) in sub-clauses (a) and (b), for the words, figures and letters "ending on the 31st day of March, 2003" the words, figures and letters "ending on the 31st day of March, 2006" shall be substituted with effect from the 1st day of April, 2002;

(f) in sub-section (7), for the words "industrial undertaking" at both the places where they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002;

(g) in sub-section (8), with effect from the 1st day of April, 2002,-

(i) for the word "goods" wherever it occurs, the words "goods or services" shall be substituted;

(ii) for the Explanation, the following Explanation shall be substituted, namely:-

' Explanation.-For the purposes of this sub-section, "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch in the open market.';

(h) in sub-section (9), for the words "industrial undertaking" at both the places where they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002.

45. Amendment of section 80-IB. - In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2002,-

(a) in sub-section (1), for the brackets, figures and word "(3) to (11)", the brackets, figures, words and letter "(3) to (11) and (11A)" shall be substituted;

(b) after sub-section (11), the following sub-section shall be inserted, namely:-

"(11A) The amount of deduction in a case of an undertaking deriving profit from the integrated business of handling, storage and transportation of foodgrains, shall be hundred per cent. of the profits and gains derived from such undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains derived from the operation of such business in a manner that the total period of deduction does not exceed ten consecutive assessment years and subject to fulfilment of the condition that it begins to operate such business on or after the 1st day of April, 2001.";

(c) in sub-section (14), in clause (c), after sub-clause (iii), the following sub-clause shall be inserted at the end, namely:-

"(iv) in the case of an undertaking engaged in the integrated business of handling, storage and transportation of foodgrains, means the assessment year relevant to the previous year in which the undertaking begins such business."

46. Amendment of section 80L. - In section 80L of the Income-tax Act, in sub-section (1), in clause (x), for the words "twelve thousand" at both the places where they occur, the words "nine thousand" shall be substituted, with effect from the 1st day of April, 2002.

47. Amendment of section 88. - In section 88 of the Income-tax Act, with effect from the 1st day of April, 2002,-

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

'Provided further that an individual shall be entitled to a deduction of an amount equal to thirty per cent. of the aggregate of the sums referred to in sub-section (2) if his income chargeable under the head "Salaries"-

(a) does not exceed one lakh rupees during the previous year before allowing deduction under section 16; and

(b) is not less than ninety per cent. of his gross total income as defined in sub-section (5) of section 80B.');

(b) in sub-section (2), in clause (xiiiia), after the words "Life Insurance Corporation", the words "or any other insurer" shall be inserted.

48. Amendment of Section 90- In section 90 of the Income-tax Act, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely :-

"Explanation:- 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, where such foreign company has not made the prescribed arrangement for declaration and payment within India, of the dividends (including dividends on preference shares) payable out of its income in India."

49. Substitution of new sections for section 92. - For section 92 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 2002, namely:-

'92. Computation of income from international transaction having regard to arm's length price. (1) Any income arising from an international transaction shall be computed having regard to the arm's length price.

(2) In computing income under sub-section (1), the allowance for any expense or interest shall also be determined having regard to the arm's length price.

(3) Where in an international transaction, two or more associated enterprises enter into a mutual agreement or arrangement for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises, the cost or expense allocated or apportioned to, or, as the case may be, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility, as the case may be.

92A. Meaning of associated enterprise. (1) For the purposes of this section and sections 92, 92B, 92C, 92D, 92E and 92F, "associated enterprise", in relation to another enterprise, means an enterprise-

(a) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or

(b) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

(2) Two enterprises shall be deemed to be associated enterprises if, at any time during the previous year,-

(a) one enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the other enterprise; or

(b) any person or enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in each of such enterprises; or

(c) a loan advanced by one enterprise to the other enterprise constitutes not less than fifty-one per cent. of the book value of the total assets of the other enterprise; or

(d) one enterprise guarantees not less than ten per cent. of the total borrowings of the other enterprise; or

(e) 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 one enterprise, are appointed by the other enterprise; or

(f) more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or

(g) the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(h) ninety per cent. or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(i) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(j) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or

(k) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family, or by a relative of a member of such Hindu undivided family, or jointly by such member and his relative; or

(l) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten per cent. interest in such firm, association of persons or body of individuals; or

(m) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed.

92B. Meaning of international transaction. (1) For the purposes of this section and sections 92, 92C, 92D and 92E, "international transaction" means a transaction between two or more associated enterprises, either or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money, or any other transaction having a bearing on the profits, income, losses or assets of such enterprises and shall include a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise shall, for the purposes of sub-section (1), be deemed to be a transaction entered into between two associated enterprises, if there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or the terms of the relevant transaction are determined in substance between such other person and the associated enterprise.

92C. Computation of arm's length price. - (1) The arm's length price in relation to an international transaction shall be determined by any of the following methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe, namely:-

(a) comparable uncontrolled price method;

(b) resale price method;

(c) cost plus method;

(d) profit split method;

(e) transactional net margin method;

(f) such other method as may be prescribed by the Board.

(2) The most appropriate method referred to in sub-section (1) shall be applied, for determination of arm's length price, in the manner as may be prescribed:

Provided that where more than one price may be determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices.

(3) Where during the course of any proceeding for the assessment of income, the Assessing Officer is, on the basis of material or information or document in his possession, of the opinion that-

(a) the price charged or paid in an international transaction has not been determined in accordance with sub-sections (1) and (2); or

(b) any information and document relating to an international transaction have not been kept and maintained by the assessee in accordance with the provisions contained in sub-section (1) of section 92D and the rules made in this behalf; or

(c) the information or data used in computation of the arm's length price is not reliable or correct; or

(d) the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under sub-section (3) of section 92D, the Assessing Officer may proceed to determine the arm's length price in relation to the said international transaction in accordance with sub-sections (1) and (2), on the basis of such material or information or document available with him:

Provided that an opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the arm's length price should not be so determined on the basis of material or information or document in the possession of the Assessing Officer.

(4) Where an arm's length price is determined by the Assessing Officer under sub-section (3), the Assessing Officer may compute the total income of the assessee having regard to the arm's length price so determined:

Provided that no deduction under section 10A or section 10B or under Chapter VI-A shall be allowed in respect of the amount of income by which the total income of the assessee is enhanced after computation of income under this sub-section.

Provided further that where the total income of an associated enterprise is computed under this sub-section on determination of the arm's length price paid to another associated enterprise from which tax has been deducted under the provisions of Chapter XVIIB, the income of the other associated enterprise shall not be recomputed by reason of such determination of arm's length price in the case of the first mentioned enterprise.

92D. Maintenance, keeping of information and document by persons entering into an international transaction. -

(1) Every person who has entered into an international transaction shall keep and maintain such information and document in respect thereof, as may be prescribed.

(2) Without prejudice to the provisions contained in sub-section (1), the Board may prescribe the period for which the information and document shall be kept and maintained under that sub-section.

(3) The Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under this Act, require any person who has entered into an international transaction to furnish any information or document in respect thereof, as may be prescribed under sub-section (1), within a period of thirty days from the date of receipt of a notice issued in this regard:

Provided that the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of thirty days by a further period not exceeding thirty days.

92E. Report from an accountant to be furnished by persons entering into international transaction. - Every person who has entered into an international transaction during a previous year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the prescribed manner by such accountant and setting forth such particulars as may be prescribed.

92F. Definitions of certain terms relevant to computation of arm's length price, etc. - In sections 92, 92A, 92B, 92C, 92D and 92E, unless the context otherwise requires-

(i) "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288;

(ii) "arm's length price" means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions;

(iii) "enterprise" means a person who is, or has been, or is proposed to be, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights, or the provision of services of any kind, or in investment, or providing loan or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries, or whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or places;

(iv) "specified date" means,-

(a) where the assessee is a company, the 31st day of October of the relevant assessment year;

(b) in any other case, the 31st day of July of the relevant assessment year;

(v) "transaction" includes an arrangement, understanding or action in concert,-

(A) whether or not such arrangement, understanding or action is formal or in writing; or

(B) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceeding.!

50. Amendment of section 94. - In section 94 of the Income-tax Act, with effect from the 1st day of April, 2002,-

(a) after sub-section (6) but before the Explanation, the following sub-section shall be inserted, namely:-

"(7) Where-

(a) any person buys or acquires any securities or unit within a period of three months prior to the record date;

(b) such person sells or transfers such securities or unit within a period of three months after such date;

(c) the dividend or income on such securities or unit received or receivable by such person is exempt, then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.";

(b) in the Explanation occurring at the end,-

(i) after clause (a), the following clause shall be inserted, namely:-

'(aa) "record date" means such date as may be fixed by a company or a Mutual Fund or the Unit Trust of India for the purposes of entitlement of the holder of the securities or the unit-holder, to receive dividend or income, as the case may be;';

(ii) after clause (c), the following clause shall be inserted at the end, namely:-

'(d) "unit" shall have the meaning assigned to it in clause (b) of the Explanation to section 115AB.'

51. Amendment of section 115AB. - In section 115AB of the Income-tax Act, in the Explanation, in clause (a), for the words "Central Government", the words and figures "Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992 (15 of 1992)," shall be substituted with effect from the 1st day of June, 2001.

52. Substitution of new section for section 115AC. For section 115AC of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:-

'115AC. Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer. - (1) Where the total income of an assessee, being a non-resident, includes-

(a) income by way of interest on bonds of an Indian company issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, or on bonds of a public sector company sold by the Government, and purchased by him in foreign currency; or

(b) income by way of dividends, other than dividends referred to in section 115-O, on Global Depository Receipts-

(i) issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, against the initial issue of shares of an Indian company and purchased by him in foreign currency through an approved intermediary; or

(ii) issued against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or

(iii) re-issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, against the existing shares of an Indian company purchased by him in foreign currency through an approved intermediary; or

(iv) issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, and purchased by him in foreign currency through an approved intermediary, against the shares of an Indian company arising out of disinvestments by such company in its subsidiary company, and the shares of both such Indian companies are listed in a recognised stock exchange in India; or

(c) income by way of long-term capital gains arising from the transfer of bonds referred to in clause (a) or, as the case may be, Global Depository Receipts referred to in clause (b), the income-tax payable shall be the aggregate of-

(i) the amount of income-tax calculated on the income by way of interest or dividends other than dividends referred to in section 115-O, as the case may be, in respect of bonds referred to in clause (a) or Global Depository Receipts referred to in clause (b), if any, included in the total income, at the rate of ten per cent.;

(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (c), if any, at the rate of ten per cent.; and

(iii) the amount of income-tax with which the non-resident would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a), (b) and (c).

(2) Where the gross total income of the non-resident-

(a) consists only of income by way of interest or dividends other than dividends referred to in section 115-O in respect of bonds referred to in clause (a) of sub-section (1) or, as the case may be, Global Depository Receipts referred to in clause (b) of that sub-section, no deduction shall be allowed to him under sections 28 to 44C or clause (i) or clause (iii) of section 57 or under Chapter VI-A;

(b) includes any income referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced, were the gross total income of the assessee.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being bonds or Global Depository Receipts referred to in clause (c) of sub-section (1).

(4) It shall not be necessary for a non-resident to furnish under sub-section (1) of section 139 a return of his income if-

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clauses (a) and (b) of sub-section (1); and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.

(5) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, in accordance with the provisions of sub-section (1), the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

Explanation.-For the purposes of this section,-

(a) "approved intermediary" means an intermediary who is approved in accordance with such scheme as may be notified by the Central Government in the Official Gazette;

(b) "Global Depository Receipts" shall have the same meaning as in clause (a) of the Explanation to section 115ACA.'

53. Amendment of section 115ACA. - In section 115ACA of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:-

(1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee), includes-

(a) income by way of dividends, other than dividends referred to in section 115-O, on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued in accordance with such Employees' Stock Option Scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf and purchased by him in foreign currency; or

(b) income by way of long-term capital gains arising from the transfer of Global Depository Receipts referred to in clause(a), the income-tax payable shall be the aggregate of-

(i) the amount of income-tax calculated on the income by way of dividends, other than dividends referred to in section 115-O, in respect of Global Depository Receipts referred to in clause (a), if any, included in the total income, at the rate of ten per cent. ;

(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b), if any, at the rate of ten per cent. ; and

(iii) the amount of income-tax with which the resident employee would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b).

Explanation.-For the purposes of this sub-section,-

(a) "specified knowledge based industry or service" means-

(i) information technology software;

(ii) information technology service;

(iii) entertainment service;

(iv) pharmaceutical industry;

(v) bio-technology industry; and

(vi) any other industry or service, as may be specified by the Central Government, by notification in the Official Gazette;

(b) "subsidiary" shall have the meaning assigned to it in section 4 of the Companies Act, 1956 (1 of 1956) and includes subsidiary incorporated outside India.'

54. Amendment of section 115BB. - In section 115BB of the Income-tax Act, in clause (i), for the words "forty per cent.", the words "thirty per cent." shall be substituted with effect from the 1st day of April, 2002.

55. Amendment of section 115-O. - In section 115-O of the Income-tax Act, in sub-section (1), for the words "twenty per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of June, 2001.

56. Amendment of section 115P. - In section 115P of the Income-tax Act, for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

57. Amendment of section 115R. - In section 115R of the Income-tax Act, in sub-sections (1) and (2), for the words "twenty per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of June, 2001.

58. Amendment of section 115S. - In section 115S of the Income-tax Act, for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

59. Amendment of section 139. - In section 139 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:-

'(1) Every person,-

(a) being a company; or

(b) being a person other than a company, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that a person referred to in clause (b), who is not required to furnish a return under this sub-section and residing in such area as may be specified by the Board in this behalf by notification in the Official Gazette, and who at any time during the previous year fulfils any one of the following conditions, namely:-

(i) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf; or

(ii) is the owner or the lessee of a motor vehicle other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not; or

(iii) is a subscriber to a telephone; or

(iv) has incurred expenditure for himself or any other person on travel to any foreign country; or

(v) is the holder of a credit card, not being an "add-on" card, issued by any bank or institution; or

(vi) is a member of a club where entrance fee charged is twenty-five thousand rupees or more, shall furnish a return, of his income during the previous year, on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided further that the Central Government may, by notification in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply:

Provided also that every company shall furnish on or before the due date the return in respect of its income or loss in every previous year.

Explanation 1.-For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Explanation 2.-In this sub-section, "due date" means,-

(a) where the assessee is-

(i) a company, or

(ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or

(iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force, the 31st day of October of the assessment year;

(b) in the case of a person other than a company, referred to in the first proviso to this sub-section, the 31st day of October of the assessment year;

(c) in the case of any other assessee, the 31st day of July of the assessment year.

Explanation 3.-For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.'

60. Amendment of section 139A. - In section 139A of the Income-tax Act, with effect from the 1st day of June, 2001,-

(a) after sub-section (5), the following sub-sections shall be inserted, namely:-

"(5A) Every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVIIIB, shall intimate his permanent account number to the person responsible for deducting such tax under that Chapter:

Provided that nothing contained in this sub-section shall apply to a non-resident referred to in sub-section (4) of section 115AC, or sub-section (2) of section 115BBA, or to a non-resident Indian referred to in section 115G:

Provided further that a person referred to in this sub-section, shall intimate the General Index Register Number till such time permanent account number is allotted to such person.

(5B) Where any sum or income or amount has been paid after deducting tax under Chapter XVIIIB, every person deducting tax under that Chapter shall quote the permanent account number of the person to whom such sum or income or amount has been paid by him-

(i) in the statement furnished in accordance with the provisions of sub-section (2C) of section 192;

(ii) in all certificates furnished in accordance with the provisions of section 203;

(iii) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of section 206 to any income-tax authority:

Provided that the Central Government may, by notification in the Official Gazette, specify different dates from which the provisions of this sub-section shall apply in respect of any class or classes of persons:

Provided further that nothing contained in sub-sections (5A) and (5B) shall apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act if such person furnishes to the person responsible for deducting tax, a declaration referred to in section 197A in the form and manner prescribed thereunder to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.

(5C) Every buyer referred to in section 206C shall intimate his permanent account number to the seller referred to in that section.

(5D) Every seller collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer referred to in that section-

(i) in all certificates furnished in accordance with the provisions of sub-section (5) of section 206C;

(ii) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (5A) or sub-section (5B) of section 206C to an income-tax authority."

61. Amendment of section 140A. - In section 140A of the Income-tax Act, after sub-section (1), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:-

'(1A) For the purposes of sub-section (1), interest payable under section 234A shall be computed on the amount of the tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted or collected at source.

(1B) For the purposes of sub-section (1), interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

Explanation.-For the purposes of this sub-section, "assessed tax" means the tax on the total income as declared in the return as reduced by the amount of tax deducted or collected at source, in accordance with the provisions of Chapter XVII, on any income which is subject to such deduction or collection and which is taken into account in computing such total income.'

62. Amendment of section 143. - In section 143 of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2001,-

(a) in the second proviso, for the words "two years from the end of the assessment year in which the income was first assessable", the words "one year from the end of the financial year in which the return is made" shall be substituted;

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

"Provided also that where the return made is in respect of the income first assessable in the assessment year commencing on the 1st day of April, 1999, such intimation may be sent at any time up to the 31st day of March, 2002."

63. Amendment of section 149. - In section 149 of the Income-tax Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted with effect from the 1st day of June, 2001, namely:-

"(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year."

64. Amendment of section 153. - In section 153 of the Income-tax Act, with effect from the 1st day of June, 2001,-

(a) in sub-section (2),-

(i) for the words "two years", the words "one year" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:-

"Provided that where the notice under section 148 was served on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such assessment, reassessment or recomputation may be made at any time up to the 31st day of March, 2002.";

(b) for sub-section (2A), the following sub-section shall be substituted, namely:-

"(2A) Notwithstanding anything contained in sub-sections (1) and (2), in relation to the assessment year commencing on the 1st day of April, 1971, and any subsequent assessment year, an order of fresh assessment in pursuance of an order under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of one year from the end of the financial year in which the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner:

Provided that where the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such an order of fresh assessment may be made at any time up to the 31st day of March, 2002.";

(c) in sub-section (3), clause (i) shall be omitted.

65. Amendment of section 154. - In section 154 of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of June, 2001,-

"(8) Without Prejudice to the provisions of sub-section (7), where an application for amendment under this section is made by the assessee on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it,-

(a) making the amendment; or

(b) refusing to allow the claim."

66. Amendment of section 158B. - In section 158B of the Income-tax Act, for clause (a), the following clause shall be substituted with effect from the 1st day of June, 2001, namely:-

'(a) "block period" means the period comprising previous years relevant to six assessment years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A and also includes the period up to the date of the commencement of such search or date of such requisition in the previous year in which the said search was conducted or requisition was made:

Provided that where the search is initiated or the requisition is made before the 1st day of June, 2001, the provisions of this clause shall have effect as if for the words "six assessment years", the words "ten assessment years" had been substituted;'

67. Amendment of section 158BFA. In section 158 BFA of the Income-tax Act, in sub-section (1), for the words "two per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

68. Amendment of section 192. - In section 192 of the Income-tax Act, after sub-section (2B), the following sub-section shall be inserted with effect from the 1st day of June, 2001, namely:-

'(2C) A person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in such form and manner as may be prescribed.'

69. Amendment of section 194A. - In section 194A of the Income-tax Act, in sub-section (3), in clause (i), in the proviso, the portion beginning with the words "the provisions of this clause" and ending with the words "had been substituted and "shall be omitted with effect from the 1st day of June, 2001,-

70. Amendment of section 194B. - In section 194B of the Income-tax Act, after the words "crossword puzzle", the words "or card game and other game of any sort" shall be inserted with effect from the 1st day of June, 2001.

71. Insertion of new section 194H. - After section 194G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2001, namely:-

'194H. Commission or brokerage. - Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.:

Provided that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed two thousand five hundred rupees.

Explanation.-For the purposes of this section,-

(i) "commission or brokerage" includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(ii) the expression "professional services" means services rendered by a person in the course of carrying on a legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as is notified by the Board for the purposes of section 44AA;

(iii) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(iv) where any income 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.'

72. Amendment of section 196C. - In section 196C of the Income-tax Act, for the words "bonds or shares" at both the places where they occur, the words "bonds or Global Depository Receipts" shall be substituted with effect from the 1st day of April, 2002.

73. Amendment of section 197- In section 197 of the Income-tax Act, in sub-section (1), after the figures and letter "194D", the figures and letter "194H" shall be inserted with effect from the 1st day of June, 2001.

74. Amendment of section 201. - In section 201 of the Income-tax Act,-

(a) in sub-section (1), after the words "does not deduct", the words "the whole or any part of the tax" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962;

(b) in sub-section (1A),-

(i) after the words "does not deduct", the words "the whole or any part of the tax" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962;

(ii) for the words "eighteen per cent.", the words "fifteen per cent." shall be substituted with effect from the 1st day of June, 2001.

75. Amendment of section 206C. - In section 206C of the Income-tax Act, in sub-section (7), for the words "two per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

76. Amendment of section 220. - In section 220 of the Income-tax Act, in sub-section (2), for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

77. Omission of section 230A. - Section 230A of the Income-tax Act shall be omitted with effect from the 1st day of June, 2001.

78. Amendment of section 234A. - In section 234A of the Income-tax Act,-

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

(i) for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001;

(ii) Explanation 4 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989;

(b) in sub-section (3), for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

79. Amendment of section 234B. - In section 234B of the Income-tax Act,-

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

(i) for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001;

(ii) for Explanation 1, the following Explanation shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:-

Explanation 1.-In this section, "assessed tax" means the tax on the total income determined under sub-section (1) of section 143 or on regular assessment as reduced by the amount of tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income.;

(b) in sub-section (3), for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

80. Amendment of section 234C. - In section 234C of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2001,-

(i) in clause (a), in sub-clauses (i) and (ii), for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted;

(ii) in clause (b), in sub-clauses (i) and (ii), for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted.

81. Omission of section 241. - Section 241 of the Income-tax Act shall be omitted with effect from the 1st day of June, 2001.

82. Amendment of section 244A. - In section 244A of the Income-tax Act, in sub-section (1), in clauses (a) and (b), for the words "one per cent.", the words "three-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

83. Amendment of section 251. - In section 251 of the Income-tax Act, in sub-section (1), in clause (a), the portion beginning with the words "or he may set aside" and ending with the words "on the basis of such fresh assessment;" shall be omitted with effect from the 1st day of June, 2001.

84. Amendment of section 254. - In section 254 of the Income-tax Act, in sub-section (2A), the following provisos shall be inserted with effect from the 1st day of June, 2001, namely:-

"Provided that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 253, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order:

Provided further that if such appeal is not so disposed of within the period specified in the first proviso, the stay order shall stand vacated after the expiry of the said period."

85. Amendment of section 264. - In section 264 of the Income-tax Act, in sub-section (5), for the words "a fee of twenty-five rupees", the words "a fee of five hundred rupees" shall be substituted with effect from the 1st day of June, 2001.

86. Amendment of section 271. - In section 271 of the Income-tax Act, in sub-section (1),-

(a) in clause (ii), for the words "a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees", the words "a sum of ten thousand rupees" shall be substituted with effect from the 1st day of June, 2001;

(b) after Explanation 6, the following Explanation shall be inserted with effect from the 1st day of April, 2002, namely:-

"Explanation 7.-Where in the case of an assessee who has entered into an international transaction defined in section 92B, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, then, the amount so added or disallowed shall, for the purposes of clause (c) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed or inaccurate particulars have been furnished, unless the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) that the price charged or paid in such transaction was computed in accordance with the provisions contained in section 92C and in the manner prescribed under that section, in good faith and with due diligence."

87. Amendment of section 271A. - In section 271A of the Income-tax Act, for the words "a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees", the words "a sum of twenty-five thousand rupees" shall be substituted with effect from the 1st day of June, 2001.

88. Insertion of new section 271AA. - After section 271A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:-

"271AA. Penalty for failure to keep and maintain information and document in respect of international transaction. Without prejudice to the provisions of section 271, if any person fails to keep and maintain any such information and document as required by sub-section (1) or sub-section (2) of section 92D, the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of each international transaction entered into by such person."

89. Insertion of new section 271BA. - After section 271B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:-

"271BA. Penalty for failure to furnish report under section 92E. - If any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one hundred thousand rupees."

90. Amendment of section 271F. - In section 271F of the Income-tax Act, with effect from the 1st day of June, 2001,-

(a) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;

(b) in the proviso, for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

91. Insertion of new section 271G. - After section 271F of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:-

"271G. Penalty for failure to furnish information or document under section 92D. - If any person who has entered into an international transaction fails to furnish any such information or document as required by sub-section (3) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of the international transaction for each such failure."

92. Amendment of section 272A. - In section 272A of the Income-tax Act,-

(a) in sub-section (1), for the words "a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees", the words "a sum of ten thousand rupees" shall be substituted with effect from the 1st day of June, 2001;

(b) in sub-section (2), after clause (h), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:-

"(i) to furnish a statement as required by sub-section (2C) of section 192."

93. Amendment of section 272BB. - In section 272BB of the Income-tax Act, in sub-section (1), for the words "a sum which may extend to five thousand rupees", the words "a sum of ten thousand rupees" shall be substituted with effect from the 1st day of June, 2001.

94. Amendment of section 273B. - In section 273B of the Income-tax Act, with effect from the 1st day of April, 2002,-

(a) after the word, figures and letter "section 271A", the word, figures and letters ", section 271AA" shall be inserted;

(b) after the word, figures and letter "section 271B", the word, figures and letters ", section 271BA" shall be inserted;

(c) after the word, figures and letter "section 271F", the word, figures and letter ", section 271G" shall be inserted.

95. Amendment of Second Schedule. - In the Second Schedule to the Income-tax Act, in rule 68A, in sub-rule (3), for the words "twelve per cent.", the words "nine per cent." shall be substituted with effect from the 1st day of June, 2001.

Wealth-tax

96. Amendment of section 17. - In section 17 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), in sub-section (1A), for clauses (a) and (b), the following clauses shall be substituted with effect from the 1st day of June, 2001, namely:-

"(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees ten lakh or more for that year."

97. Amendment of section 17A. - In section 17A of the Wealth-tax Act, with effect from the 1st day of June, 2001,-

(a) in sub-section (2),-

(i) for the words "two years", the words "one year" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:-

"Provided that where the notice under sub-section (1) of section 17 was served on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such assessment or reassessment may be made at any time up to the 31st day of March, 2002.";

(iii) the Explanation shall be omitted;

(b) in sub-section (3),-

(i) for the words "two years", the words "one year" shall be substituted;

(ii) for the figures "23" at both the places where they occur, the figures and letter "23A" shall be substituted;

(iii) for the proviso, the following proviso shall be substituted, namely,-

"Provided that where the order under section 23A or section 24 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 25 is passed by the Commissioner, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such an order of fresh assessment may be made at any time up to the 31st day of March, 2002."

98. Amendment of section 17B. - In section 17B of the Wealth-tax Act, in sub-sections (1) and (3), for the words "two per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

99. Amendment of section 31. - In section 31 of the Wealth-tax Act, in sub-section (2), with effect from the 1st day of June, 2001,-

(i) for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted;

(ii) in the second proviso, for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted.

100. Amendment of section 34A. - In section 34A of the Wealth-tax Act, with effect from the 1st day of June, 2001,-

(a) in sub-section (3), for the words "fifteen per cent.", the words "nine per cent." shall be substituted;

(b) in sub-section (4B), in clause (a), for the words "one per cent.", the words "three-fourth per cent." shall be substituted.

Expenditure-tax

101. Amendment of section 14. - In section 14 of the Expenditure-tax Act, 1987(Act 35 of 1987), for the words "one and one-half per cent.", the words "one and one-fourth per cent." shall be substituted with effect from the 1st day of June, 2001.

CHAPTER IV

INDIRECT TAXES

Customs

102. Amendment of section 27A. - In the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act), in section 27A, for the words "not below ten per cent.", the words "not below five per cent." shall be substituted.

103. Amendment of section 28. - In section 28 of the Customs Act, after sub-section (2), the following shall be inserted, namely :—

‘(2A) Where any notice has been served on a person under sub-section (1), the proper officer,—

(i) in case any duty has not been levied or has been short-levied, or the interest has not been paid or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts, where it is possible to do so, shall determine the amount of such duty or the interest, within a period of one year; and

(ii) in any other case, where it is possible to do so, shall determine the amount of duty which has not been levied or has been short-levied or erroneously refunded or the interest payable which has not been paid, part paid or erroneously refunded, within a period of six months,

from the date of service of the notice on the person under sub-section (1).

(2B) Where any duty has not been levied or has been short-levied or erroneously refunded, or any interest payable has not been paid, part paid or erroneously refunded, the person, chargeable with the duty or the interest, may pay the amount of duty or interest before service of notice on him under sub-section (1) in respect of the duty or the interest, as the case may be, and inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under sub-section (1) in respect of the duty or the interest so paid :

Provided that the proper officer may determine the amount of short-payment of duty or interest, if any, which in his opinion has not been paid by such person and, then, the proper officer shall proceed to recover such amount in the manner specified in this section, and the period of “one year” or “six months” as the case may be, referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation 1. - Nothing contained in this sub-section shall apply in a case where the duty was not levied or was not paid or the interest was not paid or was part paid or the duty or interest was erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter.

Explanation 2. - For the removal of doubts, it is hereby declared that the interest under section 28AB shall be payable on the amount paid by the person under this sub-section and also on the amount of short-payment of duty, if any, as may be determined by the proper officer, but for this sub-section.

(2C) The provisions of sub-section (2B) shall not apply to any case where the duty or the interest had become payable or ought to have been paid before the date on which the Finance Bill, 2001 receives the assent of the President.’

104. Amendment of section 28AA. - Section 28AA of the Customs Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

“(2) The provisions of sub-section (1) shall not apply to cases where the duty or the interest becomes payable or ought to be paid on and after the date on which the Finance Bill, 2001 receives the assent of the President.”.

105. Amendment of section 28AB. - In section 28AB of the Customs Act,—

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

“(1) Where any duty has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-section (2), or has paid the duty under sub-section (2B), of section 28, shall, in addition to the duty, be liable to pay interest at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-section (2), or sub-section (2B), of section 28, till the date of payment of such duty :

Provided that in such cases where the duty becomes payable consequent to issue of an order, instruction or direction by the Board under section 151A, and such amount of duty payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole of the amount, including the amount already paid.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall not apply to cases where the duty or interest had become payable or ought to have been paid before the date on which the Finance Bill, 2001 receives the assent of the President.”.

106. Amendment of section 61. - In section 61 of the Customs Act, in sub-section (2), in clause (ii), for the words “six months”, wherever they occur, the words “thirty days” shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

107. Amendment of section 112. - In section 112 of the Customs Act,—

(a) in clause (i), for the words “not exceeding five times the value of the goods or one thousand rupees,” the words “not exceeding the value of the goods or five thousand rupees,” shall be substituted;

(b) in clause (ii), for the words “not exceeding five times the duty sought to be evaded on such goods or one thousand rupees,” the words “not exceeding the duty sought to be evaded on such goods or five thousand rupees,” shall be substituted;

(c) in clause (iii), for the words “not exceeding five times the difference between the declared value and the value thereof or one thousand rupees,” the words “not exceeding the difference between the declared value and the value thereof or five thousand rupees,” shall be substituted;

(d) in clause (iv), for the words “not exceeding five times the value of the goods or five times the difference between the declared value and the value thereof or one thousand rupees,” the words “not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees,” shall be substituted;

(e) in clause (v), for the words “not exceeding five times the duty sought to be evaded on such goods or five times the difference between the declared value and the value thereof or one thousand rupees,” the words “not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees,” shall be substituted.

108. Amendment of section 114. - In section 114 of the Customs Act,—

(a) in clause (i), for the words “not exceeding five times the value of the goods or one thousand rupees,”, the words “not exceeding the value of the goods or five thousand rupees,” shall be substituted;

(b) in clause (ii), for the words “not exceeding five times the duty sought to be evaded on such goods or one thousand rupees,”, the words “not exceeding the duty sought to be evaded or five thousand rupees,” shall be substituted;

(c) in clause (iii), for the words "not exceeding five times the amount of drawback claimed or one thousand rupees," the words "not exceeding the amount of drawback claimed or five thousand rupees," shall be substituted.

109. Amendment of section 128. - In section 128 of the Customs Act, in sub-section (1),—

(a) for the words “within three months”, the words “within sixty days” shall be substituted;

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

“Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.”.

110. Amendment of section 128A. - In section 128A of the Customs Act,—

(a) in sub-section (3), for the portion beginning with the words and brackets “The Commissioner (Appeals) may” and ending with the words “additional evidence, if necessary:”, the following shall be substituted, namely :—

“The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:”;

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

“(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.”.

111. Amendment of section 129D. - In section 129D of the Customs Act, in sub-section (1), after the words “direct such Commissioner”, the words “or any other Commissioner” shall be inserted.

112. Amendment of section 129E. - In section 129E of the Customs Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where an application is filed before the Commissioner (Appeals) for dispensing with the deposit of duty and interest demanded or penalty levied under the first proviso, the Commissioner (Appeals) shall, where it is possible to do so, decide such application within thirty days from the date of its filing.”.

113. Insertion of new section 159A. - After section 159 of the Customs Act, the following section shall be inserted and shall be deemed to have been inserted on and from the 1st day of February, 1963, namely :—

“159A. Effect of amendments, etc., of rules, regulations, notifications or orders. - Where any rule, regulation, notification or order made or issued under this Act or any notification or order issued under

such rule or regulation, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not—

(a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or

(b) affect the previous operation of any rule, regulation, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, regulation, notification or order so amended, repealed, superseded or rescinded; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, regulation, notification or order so amended, repealed, superseded or rescinded; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, regulation, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.”.

114. Validation of certain action taken. - 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 February, 1963 and ending with the day, the Finance Bill, 2001 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 section 113 of the Finance Act, 2001 had been in force at all material time 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 of such rule, regulation, notification or order, 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 amendment made by section 113 of the Finance Act, 2001 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 of 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 section 113 of the Finance Act, 2001 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 section 113 of the Finance Act, 2001 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.

115. Amendment of notifications issued under section 25 of the Customs Act. - (1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 465(E), dated the 3rd

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May, 1990, G.S.R. 423(E), dated the 20th April, 1992, G.S.R. 946(E), dated the 28th December, 1992 and G.S.R. 417(E), dated the 14th May, 1993, issued under sub-section (1) of section 25 of the Customs Act by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified in the Eighth Schedule, on and from the date mentioned in column (4) of that Schedule against each of such notifications 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 notifications, shall be deemed to be, and always to have been, for all purposes, as validly or effectively, taken or done as if the notifications 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 notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, retrospectively at all material times.

Customs Tariff

116. Amendment of section 3. - In the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), in section 3,—

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

“Provided that in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the Official Gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different States, or, if a like alcoholic liquor is not produced or manufactured in any State, then, having regard to the excise duty which would be leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.”;

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

“Provided that in case of an article imported into India,—

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is the goods specified by notification in the Official Gazette under sub-section (1) of section 4A of the Central Excise Act, 1944 (1 of 1944),

the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of section 4A of the Central Excise Act, 1944 (1 of 1944).

Explanation. - Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.”.

117. Amendment of section 8B. - In section 8B of the Customs Tariff Act,—

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

“Provided further that the Central Government may, by notification in the Official Gazette, exempt such quantity of any article as it may specify in the notification, when imported from any country or territory into India, from payment of the whole or part of the safeguard duty leviable thereon.”;

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

“(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any safeguard duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation. - For the purposes of this section, the expressions “hundred per cent. export-oriented undertaking”, “free trade zone” and “special economic zone” shall have the meanings assigned to them in Explanation 2 to sub-section (1) of section 3 of Central Excise Act, 1944 (1 of 1944).’.

118. Amendment of section 9A. - In section 9A of the Customs Tariff Act, after sub-section (2), the following shall be inserted, namely:—

“(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub-section (2), unless specifically made applicable in such notification or such imposition, as the case may be, shall not apply to articles imported by a hundred per cent. export-oriented undertaking or a unit in a free trade zone or in a special economic zone.

Explanation. - For the purposes of this section, the expressions “hundred per cent. export-oriented undertaking”, “free trade zone” and “special economic zone” shall have the meanings assigned to them in Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944 (1 of 1944).’.

119. Amendment of First Schedule. - In the Customs Tariff Act, the First Schedule shall,—

(a) be amended in the manner specified in the Second Schedule; and

(b) with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, be also amended in the manner specified in the Third Schedule.

Excise

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

(a) in the proviso, —

(i) in clause (i), for the words “free trade zone”, the words “free trade zone or a special economic zone” shall be substituted;

(ii) in clause (ii), for the words “allowed to be sold in India”, the words “brought to any other place in India” shall be substituted;

(b) in Explanation 2, after clause (ii), the following clause shall be inserted, namely :—

‘(iii) “special economic zone” means a zone which the Central Government may, by notification in the Official Gazette, specify in this behalf.’.

121. Omission of section 3A. - Section 3A of the Central Excise Act shall be omitted.

122. Amendment of section 5A. - In section 5A of the Central Excise Act, in sub-section (1), —

(a) in the proviso, —

(i) in clause (i), for the words “free trade zone”, the words “free trade zone or a special economic zone” shall be substituted;

(ii) in clause (ii), for the words “allowed to be sold in India”, the words “brought to any other place in India” shall be substituted;

(b) in the Explanation, for the words ‘ “free trade zone” ’, the words ‘ “free trade zone”, “special economic zone” ’ shall be substituted.

123. Amendment of section 11A. - In section 11A of the Central Excise Act, after sub-section (2), the following shall be inserted, namely :—

‘(2A) Where any notice has been served on a person under sub-section (1), the Central Excise Officer, —

(a) in case any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made there under with intent to evade payment of duty, where it is possible to do so, shall determine the amount of such duty, within a period of one year; and

(b) in any other case, where it is possible to do so, shall determine the amount of duty of excise which has not been levied or paid or has been short-levied or short-paid or erroneously refunded, within a period of six months,

from the date of service of the notice on the person under sub-section (1).

(2B) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person, chargeable with the duty, may pay the amount of duty before service of notice on him under sub-section (1) in respect of the duty, and inform the Central Excise Officer of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the duty so paid :

Provided that the Central Excise Officer may determine the amount of short payment of duty, if any, which in his opinion has not been paid by such person and, then, the Central Excise Officer shall proceed to recover such amount in the manner specified in this section, and the period of “one year” referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.

Explanation 1. - Nothing contained in this sub-section shall apply in a case where the duty was not levied or was not paid or was short-levied or was short-paid or was erroneously refunded by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty.

Explanation 2. - For the removal of doubts, it is hereby declared that the interest under section 11AB shall be payable on the amount paid by the person under this sub-section and also on the amount of short-payment of duty, if any, as may be determined by the Central Excise Officer, but for this sub-section.

(2C) The provisions of sub-section (2B) shall not apply to any case where the duty had become payable or ought to have been paid before the date on which the Finance Bill, 2001 receives the assent of the President.’.

124. Amendment of section 11AA. - Section 11AA of the Central Excise Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

“(2) The provisions of sub-section (1) shall not apply to cases where the duty becomes payable on and after the date on which the Finance Bill, 2001 receives the assent of the President.”.

125. Amendment of section 11AB. - In section 11AB of the Central Excise Act, —

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

“(1) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-section (2), or has paid the duty under sub-section (2B), of section 11A, shall, in addition to the duty, be liable to pay interest at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first date of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-section (2), or sub-section (2B), of section 11A till the date of payment of such duty :

Provided that in such cases where the duty becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B, and such amount of duty payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole of the amount, including the amount already paid.”;

(b) for sub-section (2), the following sub-section shall be substituted, namely :—

“(2) The provisions of sub-section (1) shall not apply to cases where the duty had become payable or ought to have been paid before the date on which the Finance Bill, 2001 receives the assent of the President.”.

126. Amendment of section 11BB. - In section 11BB of the Central Excise Act, for the words “not below ten per cent.”, the words “not below five per cent.” shall be substituted.

127. Amendment of section 35. - In section 35 of the Central Excise Act, in sub-section (1), —

(a) for the words “within three months”, the words “within sixty days” shall be substituted;

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

“Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.”.

128. Amendment of section 35A. - In section 35A of the Central Excise Act, —

(a) in sub-section (3), for the portion beginning with the words and brackets “The Commissioner (Appeals) may” and ending with the words “additional evidence, if necessary:”, the following shall be substituted, namely :—

“The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against :”;

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

“(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.”.

129. Amendment of section 35E. - In section 35E of the Central Excise Act, in sub-section (1), after the words “direct such Commissioner”, the words “or any other Commissioner” shall be inserted.

130. Amendment of section 35F. - In section 35F of the Central Excise Act, after the proviso, the following proviso shall be inserted, namely :—

“Provided further that where an application is filed before the Commissioner (Appeals) for dispensing with the deposit of duty demanded or penalty levied under the first proviso, the Commissioner (Appeals) shall, where it is possible to do so, decide such application within thirty days from the date of its filing.”.

131. Insertion of new section 38A. - After section 38 of the Central Excise Act, the following section shall be inserted and shall be deemed to have been inserted on and from the 28th day of February, 1944, namely :—

“38A. Effect of amendments, etc., of rules, notifications or orders. - Where any rule, notification or order made or issued under this Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not —

(a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or

(b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.”.

132. Validation of certain action taken. - Any action taken or anything done or omitted to be done or purporting to have been taken or done or omitted to be done under any rule, notification or order made or issued under the Central Excise Act, or any notification or order issued under such rule at any time during the period commencing on and from the 28th day of February, 1944 and ending with the day, the Finance Bill, 2001 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 section 131 of the Finance Act, 2001 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 excisable goods under any of such rule, notification or order, 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 amendment made by section 131 of the Finance Act, 2001 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 taken or anything done or omitted to be done, in respect of any excisable goods under any of such rule, 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 section 131 of the Finance Act, 2001 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 credit of duty in respect of inputs or capital goods or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by section 131 of the Finance Act, 2001 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.

133. Validation of certain exemption given to polytan in powder or granule form. - (1) The amendment of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 168(E), dated the 1st March, 2000 made by the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 98(E), dated the 15th day of February, 2001, which was issued in exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, granting exemption from customs duty leviable under the First Schedule to the Customs Tariff Act and additional duty of customs leviable under sub-section (1) of section 3 of the Customs Tariff Act on import of "Polytan in powder or granule form" by Sports Authority of India or a National Sports Federation under a certificate issued by the Sports Authority of India for laying synthetic tracks and artificial surfaces for use in a national or international championship or competition to be held in India or abroad shall be deemed to be, and always to have been for all purposes validly, come into force on and from the 1st day of December, 2000 at all material times.

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

(3) Notwithstanding anything contained in section 27 of the Customs Act, an application for the claim of refund of the duty of customs or the additional duty of customs, as the case may be, under sub-section (2) shall be made within one year from the date on which the Finance Bill, 2001 receives the assent of the President.

(4) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the

Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, retrospectively at all material times.

Central Excise Tariff

134. Amendment of Act 5 of 1986. - In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

- (a) the First Schedule shall be amended in the manner specified in the Fourth Schedule;
- (b) the Second Schedule shall be amended in the manner specified in the Fifth Schedule.

135. Amendment of Act 58 of 1957. - The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Sixth Schedule.

136. National Calamity Contingent duty. - (1) In the case of goods specified in the Seventh Schedule, being goods manufactured or produced, there shall be levied and collected for the purposes of the Union, by surcharge, a duty of excise, to be called the National Calamity Contingent duty (hereinafter referred to as the National Calamity duty), at the rates specified in the said Schedule.

(2) The National Calamity duty chargeable on the goods specified in the Seventh Schedule shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, 1944 (1 of 1944) or any other law for the time being in force.

(3) The provisions of the Central Excise Act, 1944 (1 of 1944) and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the National Calamity duty leviable under this section in respect of the goods specified in the Seventh Schedule as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

CHAPTER V

SERVICE TAX

137. Amendment of Act 32 of 1994. - In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,-

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

'65. Definitions. - In this Chapter, unless the context otherwise requires,-

(1) "actuary" has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938);

(2) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(3) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(4) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;

(5) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);

(6) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 (20 of 1972) and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

(7) "assessee" means a person liable to pay the service tax and includes his agent;

(8) "authorised service station" means any service station, or centre, authorised by any automobile manufacturer, to carry out any service or repair of any automobile manufactured by such manufacturer;

(9) "banking" and "banking company" shall have the meanings assigned to them in clauses (b) and (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), respectively;

(10) "banking and other financial services" means, the following services provided by a banking company or a financial institution including a non-banking financial company, namely:-

(i) financial leasing services including equipment leasing and hire-purchase by a body corporate;

(ii) credit card services;

(iii) merchant banking services;

(iv) securities and foreign exchange (forex) broking;

(v) asset management including portfolio management, all forms of fund management, pension fund management, custodial depository and trust services, but does not include cash management;

(vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy; and

(vii) provision and transfer of information and data processing;

(11) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(12) "body corporate" shall have the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);

(13) "broadcasting" has the meaning assigned to it in clause (c) of section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990);

(14) "cab" means a motor cab or maxi cab;

(15) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

(16) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(17) "computer network" has the meaning assigned to it in clause (j) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(18) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;

(19) "convention" means a formal meeting or assembly which is not open to the general public, and does not include a meeting or assembly the principal purpose of which is to provide any type of amusement, entertainment or recreation;

(20) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(21) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

(22) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962);

(23) "data" has the meaning assigned to it in clause (o) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(24) "electronic form" has the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(25) "facsimile" (FAX) means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system;

(26) "financial institution" has the meaning assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934(2 of 1934);

(27) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

(28) "goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act,1930 (3 of 1930);

- (29) "information" has the meaning assigned to it in clause (v) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);
- (30) "Insurance Agent" has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (31) "insurance auxiliary service" means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business and includes risk assessment, claim settlement, survey and loss assessment;
- (32) "intermediary or insurance intermediary" has the meaning assigned to it in sub-clause (f) of clause (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999(41 of 1999);
- (33) "insurer" means any person carrying on the general insurance business in India;
- (34) "interior decorator" means any person engaged whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;
- (35) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the subscriber and includes a speech circuit, data circuit or a telegraph circuit;
- (36) "magnetic storage device" includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;
- (37) "management consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;
- (38) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 (4 of 1882) and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social or business function;
- (39) "mandap keeper" means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;
- (40) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;
- (41) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;
- (42) "maxi cab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);
- (43) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

- (44) "non-banking financial company" has the meaning assigned to it in clause (f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
- (45) "on-line information and database access or retrieval" means providing data or information, retrievable or otherwise, to a customer, in electronic form through a computer network;
- (46) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;
- (47) "photography" includes still photography, motion picture photography, laser photography, aerial photography and fluorescent photography;
- (48) "photography studio or agency" means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;
- (49) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);
- (50) "port" has the meaning assigned to it in clause (q) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);
- (51) "port services" means any service rendered by a port, in any manner, in relation to a vessel or goods;
- (52) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provision of the Chartered Accountants Act, 1949 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy;
- (53) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy;
- (54) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship;
- (55) "prescribed" means prescribed by rules made under this Chapter;
- (56) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;
- (57) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;
- (58) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

- (59) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;
- (60) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;
- (61) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (62) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;
- (63) "service tax" means tax leviable under the provisions of this Chapter;
- (64) "ship" means a sea-going vessel and includes a sailing vessel;
- (65) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;
- (66) "sound recording" means recording of sound on a magnetic storage device and editing thereof, in any manner;
- (67) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;
- (68) "steamer agent" means any person who undertakes, either directly or indirectly ,-
- (a) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or
 - (b) to book, advertise or canvass for cargo for or on behalf of a shipping line; or
 - (c) to provide container feeder services for or on behalf of a shipping line;
- (69) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (70) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (71) "subscriber" means a person to whom any service of a telephone connection or a facsimile or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;
- (72) "taxable service" means any service provided,-
- (a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

- (b) to a subscriber, by the telegraph authority in relation to a telephone connection;
- (c) to a subscriber, by the telegraph authority in relation to a pager;
- (d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;
- (e) to a client, by an advertising agency in relation to advertisement, in any manner;
- (f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;
- (g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;
- (h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;
- (i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;
- (j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;
- (k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner;
- (l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;
- (m) to a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;
- (n) to any person, by a tour operator in relation to a tour;
- (o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;
- (p) to a client, by an architect in his professional capacity, in any manner;
- (q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;
- (r) to a client, by a management consultant in connection with the management of any organisation, in any manner;
- (s) to a client, by a practising chartered accountant in his professional capacity, in any manner;
- (t) to a client, by a practising cost accountant in his professional capacity, in any manner;
- (u) to a client, by a practising company secretary in his professional capacity, in any manner;

(v) to a client, by a real estate agent in relation to real estate;

(w) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;

(z) to a client, by an underwriter in relation to underwriting, in any manner;

(za) to a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(zb) to a customer, by a photography studio or agency in relation to photography, in any manner ;

(zc) to a client, by any commercial concern in relation to holding of convention, in any manner;

(zd) to a subscriber, by the telegraph authority in relation to a leased circuit;

(ze) to a subscriber, by the telegraph authority in relation to a communication through telegraph;

(zf) to a subscriber, by the telegraph authority in relation to a communication through telex;

(zg) to a subscriber, by the telegraph authority in relation to a facsimile communication;

(zh) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;

(zi) to a client, by a video production agency in relation to video-tape production, in any manner;

(zj) to a client, by a sound recording studio or agency in relation to any kind of sound recording;

(zk) to a client, by a broadcasting agency or organisation in relation to broadcasting, in any manner;

(zl) to a policy holder by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services;

(zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;

(zn) to any person, by a port or any person authorised by the port, in relation to port services, in any manner;

(zo) to a customer, by an authorised service station, in relation to any service or repair of motor cars or two wheeled motor vehicles, in any manner; and the term "service provider" shall be construed accordingly;

(73) "telegraph" has the meaning assigned to it in clause (1) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(74) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885) and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(75) "telex" means a typed communication by using teleprinters through telex exchanges;

(76) "tour" means a journey from one place to another irrespective of the distance between such places;

(77) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(78) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder;

(79) "underwriter" has the meaning assigned to it in clause (f) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(80) "underwriting" has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(81) "vessel" has the meaning assigned to it in clause (z) of section 2 of the Major Port Trusts Act, 1963 (83 of 1963);

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

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

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

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

"66 Charge of service tax. - (1) On and from the date of commencement of this Chapter, there shall be levied a tax (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (a), (b) and (d) of clause (72) of section 65 and collected in such manner as may be prescribed.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996 (33 of 1996), there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (72) of section 65 and collected in such manner as may be prescribed.

(3) With effect from the date notified under section 88 of the Finance Act, 1997 (26 of 1997), there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n) and (o) of clause (72) of section 65 and collected in such manner as may be prescribed.

(4) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998 (21 of 1998), there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (p) , (q) , (r), (s), (t), (u), (v), (w), (x), (y) and (z) of clause (72) of section 65 and collected in such manner as may be prescribed.

(5) With effect from the date notified under section 137 of the Finance Act, 2001, there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn) and (zo) of clause (72) of section 65 and collected in such manner as may be prescribed.";

(c) for section 67, the following section shall be substituted, namely:-

"67. Valuation of taxable services for charging service tax. - For the purposes of this Chapter, the value of any taxable service shall be the gross amount charged by the service provider for such service rendered by him.

Explanation.- For the removal of doubts, it is hereby declared that the value of a taxable service, as the case may be, includes,-

(a) the aggregate of commission or brokerage charged by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker;

(b) the adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;

(c) the amount of premium charged by the insurer from the policy holder;

(d) the commission received by the air travel agent from the airline;

(e) the commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer; and

(f) the reimbursement received by the authorised service station from manufacturer for carrying out any service of any motor car or two wheeled motor vehicle manufactured by such manufacturer, but does not include,-

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

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

(c) the cost of parts or accessories, if any, sold to the customer during the course of service or repair of motor cars or two wheeled motor vehicles.";

(d) in section 69, for the words "Central Excise Officer", the words "Superintendent of Central Excise" shall be substituted;

(e) for sections 70 and 71, the following sections shall be substituted, namely:-

"70. Furnishing of returns. - Every person liable to pay the service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

71. Verification of tax assessed by the assessee, etc. - (1) The Superintendent of Central Excise may, on the basis of information contained in the return filed by the assessee under section 70, verify the correctness of the tax assessed by the assessee on the services provided.

(2) The Superintendent of Central Excise may require the assessee to produce any accounts, documents or other evidence as he may deem necessary for such verification as and when required.

(3) If on verification under sub-section (2), the Superintendent of Central Excise is of the opinion that service tax on any service provided has escaped assessment or has been under-assessed, he may refer the matter to the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise, who may pass such order of assessment as he thinks fit.";

(f) in section 72,-

(a) for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(b) in clause (b), for the words, brackets and figures "to comply with all the terms of a notice issued under sub-section (1) of section 71," the words and figures "to comply with the provisions of section 71," shall be substituted;

(g) in section 73,-

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

"(a) the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise has reason to believe that by reason of omission or failure on the part of the assessee, to make a return under section 70 for any prescribed period or to disclose wholly or truly all material facts required for verification of the assessment under section 71, the value of taxable service has escaped assessment or has been under-assessed or any sum has erroneously been refunded, or";

(ii) in clause (b), for the portion beginning with the words "Central Excise Officer has", and ending with the words "has been under-assessed" the following shall be substituted, namely:-

"Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise has in consequence of information in his possession, reason to believe that the value of any taxable service assessable in any prescribed period has escaped assessment or has been under-assessed or any sum has erroneously been refunded";

(h) in section 74, for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(i) in section 75, for the words "at the rate of one and one-half per cent. for every month or part of the month", the words "at the rate of twenty-four per cent. per annum for the period" shall be substituted;

(j) after section 75, the following section shall be inserted, namely:-

"75A. Penalty for failure of registration. - Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made thereunder, fails to make an application for registration under section 69, shall pay, by way of penalty, a sum of five hundred rupees.";

(k) in section 77, for the words "two thousand rupees", the words "one thousand rupees" shall be substituted;

(l) in section 78, for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(m) in section 79, for the portion beginning with the words "If the Central Excise Officer" and ending with the word and figures "section 71,", the following shall be substituted, namely:-

"If the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with the provisions of section 71,";

(n) in section 82, for the words "Central Excise Officer", the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(o) in section 84,-

(a) in sub-section (1) , for the words "Central Excise Officer subordinate to him", the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(b) in sub-section (3), for the words "Central Excise Officer", the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(p) in section 85, for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(q) in section 86,-

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

"(2) The Board may, if it objects to any order passed by the Commissioner of Central Excise under section 84, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

(2A) The Commissioner of Central Excise may, if he objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.";

(b) in sub-section (3), for the words, brackets and figure "or sub-section (2)", the words, brackets, figures and letter "or sub-section (2) or sub-section (2A)" shall be substituted;

(c) in sub-section (4), for the portion beginning with the words "The Central Excise Officer" and ending with the words, brackets and figure "or sub-section (2)," , the following shall be substituted, namely:-

"The Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A)";

(d) in sub-section (6), for the words, brackets and figure " in sub-section (2)", the words, brackets, figures and letter " in sub-section (2) or sub-section (2A)" shall be substituted.