

# **FINANCE ACT, 2002**

*An Act to give effect to the financial proposals of the Central Government for the financial year 2002-2003.*

BE it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:—

## **CHAPTER I**

### **PRELIMINARY**

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

1. (1) This Act may be called the Finance Act, 2002.

(2) Save as otherwise provided in this Act, sections 2 to 116 shall be deemed to have come into force on the 1st day of April, 2002.

## **CHAPTER II**

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

#### **Income-tax**

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2002, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

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

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

rates specified in the said Paragraph A, as if such aggregate income were the total income;

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

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

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or 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 by a surcharge for purposes of the Union, calculated at the rate of two per cent of such income-tax:

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

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

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

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

(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 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, “advance tax” shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased 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 section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

**Provided also** that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBB, 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 five per cent of such tax.

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

- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, “advance tax” in respect of the total income; and
- (b) such income-tax or, as the case may be, “advance tax” shall be so charged or computed as follows:—

- (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or “advance tax” shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;
- (ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or “advance tax” shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;
- (iii) the amount of income-tax or “advance tax” determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, “advance tax” determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, “advance tax” in respect of the total income:

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

(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, 2002, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;
- (b) “insurance commission” means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);
- (c) “net agricultural income”, in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;
- (d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

## CHAPTER III

## DIRECT TAXES

### *Income-tax*

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

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

(a) in clause (24), after sub-clause (xi), the following sub-clause shall be inserted with effect from the 1st day of April, 2003, namely:—

“(xii) any sum referred to in clause (vii) of section 28;”;

(b) in clause (31), after sub-clause (vii), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;”;

(c) in clause (37A), in sub-clause (i), for the words, figures and letters “or section 115BB or section 115E”, wherever they occur, the words, figures and letters “or section 115BB or section 115BBB or section 115E” shall be substituted with effect from the 1st day of April, 2003

Amendment of section 10.

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

(a) clause (3) shall be omitted with effect from the 1st day of April, 2003;

(b) in clause (4), in sub-clause (i), the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“**Provided** that the Central Government shall not specify, for the purposes of this sub-clause, such securities or bonds on or after the 1st day of June, 2002;”;

(c) in clause (4B), for the words “savings certificates issued”, the words, figures and letters “savings certificates issued before the 1st day of June, 2002” shall be substituted with effect from the 1st day of April, 2003;

(d) clause (5B) shall be omitted with effect from the 1st day of April, 2003;

(e) in clause (6), sub-clause (i) shall be omitted with effect from the 1st day of April, 2003;

(f) in clause (6A), after the words, figures and letters “Government or the Indian concern after the 31st day of March, 1976”, the words, figures and letters “but before the 1st day of June, 2002” shall be inserted with effect from the 1st day of April, 2003;

(g) in clause (6B), with effect from the 1st day of April, 2003,—

(i) for the words “agreement entered into by the Central Government”, the words, figures and letters “agreement entered into before the 1st day of June, 2002 by the Central Government” shall be substituted;

(ii) for the words “related agreement approved”, the words “related agreement approved before that date” shall be substituted;

(h) in clause (10C), after sub-clause (viib), the following sub-clause shall be inserted, namely:—

“(viic) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette, specify in this behalf; or”;

- (i) after clause (10C), the following clause shall be inserted with effect from the 1st day of April, 2003, namely:—
- “(10CC) in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment within the meaning of clause (2) of section 17, the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956);”;
- (j) clause (14A) shall be omitted with effect from the 1st day of April, 2003;
- (k) in clause (15), with effect from the 1st day of April, 2003,—
- (i) in sub-clause (iib), the following proviso shall be inserted, namely:—
- “**Provided** that the Central Government shall not specify, for the purposes of this sub-clause, such Capital Investment Bonds on or after the 1st day of June, 2002.”;
- (ii) in sub-clause (iid), after the third proviso and before the *Explanation*, the following proviso shall be inserted, namely:—
- “**Provided also** that the Central Government shall not specify, for the purposes of this sub-clause, such bonds on or after the 1st day of June, 2002.”;
- (l) in clause (20), the following *Explanation* shall be inserted with effect from the 1st day of April, 2003, namely:—
- ‘*Explanation*.—For the purposes of this clause, the expression “local authority” means—
- (i) Panchayat as referred to in clause (d) of article 243 of the Constitution; or
- (ii) Municipality as referred to in clause (e) of article 243P of the Constitution; or
- (iii) Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or
- (iv) Cantonment Board as defined in section 3 of the Cantonments Act, 1924 (2 of 1924).’;
- (m) clause (20A) shall be omitted with effect from the 1st day of April, 2003;
- (n) in clause (21), after the third proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—
- “**Provided also** that where the scientific research association is approved by the Central Government and subsequently that Government is satisfied that—
- (i) the scientific research association has not applied its income in accordance with the provisions contained in clause (a) of the first proviso; or
- (ii) the scientific research association has not invested or deposited its funds in accordance with the provisions contained in clause (b) of the first proviso; or
- (iii) the activities of the scientific research association are not genuine; or
- (iv) the activities of the scientific research association are not being carried out in accordance with all or any of the conditions subject to which such association was approved,
- it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association, by order, withdraw the approval

and forward a copy of the order withdrawing the approval to such association and to the Assessing Officer.”;

- (o) in clause (22B), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“**Provided also** that where the news agency has been specified, by notification, by the Central Government and subsequently that Government is satisfied that such news agency has not applied or accumulated or distributed its income in accordance with the provisions contained in the first proviso, it may, at any time after giving a reasonable opportunity of showing cause, rescind the notification and forward a copy of the order rescinding the notification to such agency and to the Assessing Officer.”;

- (p) clause (23) shall be omitted with effect from the 1st day of April, 2003;

- (q) in clause (23A), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“**Provided further** that where the association or institution has been approved by the Central Government and subsequently that Government is satisfied that—

- (i) such association or institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or
- (ii) the activities of the association or institution are not being carried out in accordance with all or any of the conditions subject to which such association or institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association or institution and to the Assessing Officer.”;

- (r) in clause (23B), after the second proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“**Provided also** that where the institution has been approved by the Khadi and Village Industries Commission and subsequently that Commission is satisfied that—

- (i) the institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or
- (ii) the activities of the institution are not being carried out in accordance with all or any of the conditions subject to which such institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such institution and to the Assessing Officer.”;

- (s) in clause (23C),—

- (i) in the third proviso, for clause (a), the following clause shall be substituted with effect from the 1st day of April, 2003, namely:—

“(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years; and”;



- (ii) in the ninth proviso, with effect from the 3rd day of February, 2001,—
  - (a) after the words, brackets, letters and figures “in terms of clause (d) of sub-section (2) of section 80G”, the words, brackets, figures and letter “in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or” shall be inserted and shall be deemed to have been inserted;
  - (b) for the words, figures and letters “or before the 31st day of March, 2002”, the words, figures and letters “or before the 31st day of March, 2003” shall be substituted and shall be deemed to have been substituted;
- (iii) the tenth proviso shall be omitted;
- (iv) after the tenth proviso, the following provisos shall be inserted with effect from the 1st day of April, 2003, namely:—

“**Provided also** that where the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) does not apply its income during the year of receipt and accumulates it, any payment or credit out of such accumulation to any trust or institution registered under section 12AA or to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established :

**Provided also** that where the fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) is notified by the Central Government or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), is approved by the prescribed authority and subsequently that Government or the prescribed authority is satisfied that—

- (i) such fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not,—
  - (A) applied its income in accordance with the provisions contained in clause (a) of the third proviso; or
  - (B) invested or deposited its funds in accordance with the provisions contained in clause (b) of the third proviso; or
- (ii) the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution,—
  - (A) are not genuine; or
  - (B) are not being carried out in accordance with all or any of the conditions subject to which it was notified or approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed action to the concerned fund or institution or trust or any university or other educational institution or any hospital or other medical institution, rescind the



notification or, by order, withdraw the approval, as the case may be, and forward a copy of the order rescinding the notification or withdrawing the approval to such fund or institution or trust or any university or other educational institution or any hospital or other medical institution and to the Assessing Officer;”;

- (t) in clause (23D), in the opening portion, the words, figures and letter “subject to the provisions of Chapter XII-E,” shall be omitted with effect from the 1st day of April, 2003;
- (u) clause (23E) shall be omitted with effect from the 1st day of April, 2003;
- (v) after clause (23EA), the following clause shall be inserted, namely:—

“(23EB) any income of the Credit Guarantee Fund Trust for Small Scale Industries, being a trust created by the Government of India and the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), for five previous years relevant to the assessment years beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2007;”;
- (w) in clause (23FA), the words, figures and letter “other than dividends referred to in section 115-O,” shall be omitted with effect from the 1st day of April, 2003;
- (x) in clause (23G), the words, figures and letter “other than dividends referred to in section 115-O,” shall be omitted with effect from the 1st day of April, 2003;
- (y) clauses (29) and (33) shall be omitted with effect from the 1st day of April, 2003

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

**5.** In section 10A of the Income-tax Act, with effect from the 1st day of April, 2003,—

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

“**Provided also** that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software.”;
- (b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be hundred per cent of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent of such profits and gains for further two assessment years.”;
- (c) after sub-section (9) and before *Explanation 1*, the following shall be inserted, namely:—

“(9A) Notwithstanding anything contained in sub-section (9), where as a result of reorganisation of business, a firm or a sole proprietary concern is succeeded by a company and the ownership or beneficial interest in the undertaking of the firm or the sole proprietary concern is transferred to the company, the deduction under sub-section (1) in respect of such undertaking shall be allowed to the company, as the same would have been allowed to such firm or sole proprietary concern, as the case may be, if the reorganisation had not taken place:

**Provided** that,—

- (a) in the case of a firm the aggregate of the shareholding in the company of the partners of the firm is not less than fifty-one per cent of the total voting power in the company and their shareholding continues to be as such for the period for which the company is eligible for deduction under this section;
- (b) in the case of a sole proprietary concern, the shareholding of the sole proprietor in the company is not less than fifty-one per cent of the total voting power in the company and his shareholding continues to remain as such for the period for which the company is eligible for deduction under this section.”.

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

**6.** In section 10B of the Income-tax Act, with effect from the 1st day of April, 2003,—

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

“**Provided also** that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software.”;

- (b) after sub-section (9) and before *Explanation 1*, the following shall be inserted, namely:—

“(9A) Notwithstanding anything contained in sub-section (9), where as a result of reorganisation of business, a firm or a sole proprietary concern is succeeded by a company and the ownership or beneficial interest in the undertaking of the firm or the sole proprietary concern is transferred to the company, the deduction under sub-section (1) in respect of such undertaking shall be allowed to the company, as the same would have been allowed to such firm or sole proprietary concern, as the case may be, if the reorganisation had not taken place:

**Provided** that,—

- (a) in the case of a firm, the aggregate of the shareholding in the company of the partners of the firm is not less than fifty-one per cent of the total voting power in the company and their shareholding continues to be as such for the period for which the company is eligible for deduction under this section;

(b) in the case of a sole proprietary concern, the shareholding of the sole proprietor in the company is not less than fifty-one per cent of the total voting power in the company and his shareholding continues to remain as such for the period for which the company is eligible for deduction under this section.”

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

7. In section 11 of the Income-tax Act, with effect from the 1st day of April, 2003,—

(a) in sub-section (1),—

(i) in clause (a), for the words “twenty-five per cent”, the words “fifteen per cent” shall be substituted;

(ii) in clause (b), for the words “twenty-five per cent”, the words “fifteen per cent” shall be substituted;

(iii) in the *Explanation*,—

(A) in clause (1), for the words “twenty-five per cent”, the words “fifteen per cent” shall be substituted;

(B) in clause (2), for the words “seventy-five per cent”, the words “eighty-five per cent” shall be substituted;

(b) in sub-section (2),—

(i) for the words “seventy-five per cent”, the words “eighty-five per cent” shall be substituted;

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

“*Explanation.*—Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.”;

(c) in sub-section (3),—

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

“(d) is credited or paid to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10,”;

(ii) for the words “set apart or ceases to remain so invested or deposited or”, the words “set apart or ceases to remain so invested or deposited or credited or paid or” shall be substituted;

(d) in sub-section (3A), the following proviso shall be inserted, namely:—

“**Provided** that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of sub-section (3) of section 11.”.

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

**8.** In section 12 of the Income-tax Act, in sub-section (3), with effect from the 3rd day of February, 2001,—

- (a) after the words, brackets, letters and figures “in terms of clause (d) of sub-section (2) of section 80G”, the words, brackets, figures and letter “in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or” shall be inserted and shall be deemed to have been inserted;
- (b) for the words, figures and letters “or before the 31st day of March, 2002”, the words, figures and letters “or before the 31st day of March, 2003” shall be substituted and shall be deemed to have been substituted.

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

**9.** In section 12A of the Income-tax Act, clause (c) shall be omitted.

### **Amendment of section 14A.**

**10.** In section 14A of the Income-tax Act, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 11th day of May, 2001, namely :—

“**Provided** that nothing contained in this section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before the 1st day of April, 2001.”.

### **Amendment of section 17.**

**11.** In section 17 of the Income-tax Act, in clause (2), after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

‘**Provided further** that for the assessment year beginning on the 1st day of April, 2002, nothing contained in this clause shall apply to any employee whose income under the head “Salaries” (whether due from, or paid or allowed by, one or more employers) exclusive of the value of all perquisites not provided for by way of monetary payment, does not exceed one lakh rupees.’.

### **Amendment of section 24.**

**12.** In section 24 of the Income-tax Act, in clause (b), with effect from the 1<sup>st</sup> day of April, 2003,—

- (a) in the second proviso, for the words, figures and letters “before the 1st day of April, 2003”, the words “within three years from the end of the financial year in which capital was borrowed” shall be substituted;

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

**‘Provided also** that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

*Explanation.*—For the purposes of this proviso, the expression “new loan” means the whole or any part of a loan taken by the assessee subsequent to capital borrowed, for the purpose of repayment of such capital.’.

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

**13.** In section 28 of the Income-tax Act, after clause (v), the following shall be inserted with effect from the 1st day of April, 2003, namely:—

‘(va) any sum, whether received or receivable in cash or kind, under an agreement for—

- (a) not carrying out any activity in relation to any business; or
- (b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services:

**Provided** that sub-clause (a) shall not apply to—

- (i) any sum, whether received or receivable, in cash or kind, on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business, which is chargeable under the head “Capital gains”;
- (ii) any sum received as compensation, from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India.

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

- (i) “agreement” includes any arrangement or 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 proceedings;

(ii) “service” means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as accounting, banking, communication, conveying of news or information, advertising, entertainment, amusement, education, financing, insurance, chit funds, real estate, construction, transport, storage, processing, supply of electrical or other energy, boarding and lodging.’.

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

**14.** In section 32 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2003,—

(a) in clause (ii),—

(i) in the second proviso, for the words, brackets and figures “or clause (ii)”, at both the places where they occur, the words, brackets, figures and letter “or clause (ii) or clause (iia)” shall be substituted;

(ii) in *Explanation 2* below the fifth proviso, for the words “For the purposes of this clause”, the words “For the purposes of this sub-section” shall be substituted;

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

‘(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2002, by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to fifteen per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii) :

**Provided** that such further deduction of fifteen per cent shall be allowed to—

(A) a new industrial undertaking during any previous year in which such undertaking begins to manufacture or produce any article or thing on or after the 1st day of April, 2002; or

(B) any industrial undertaking existing before the 1st day of April, 2002, during any previous year in which it achieves the substantial expansion by way of increase in installed capacity by not less than twenty-five per cent:

**Provided further** that no deduction shall be allowed in respect of—

(a) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or

(b) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house; or

(c) any office appliances or road transport vehicles; or

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year:

**Provided also** that no deduction shall be allowed under clause (A) or, as the case may be, clause (B), of the first proviso unless the assessee furnishes the details of machinery or plant and increase in the installed capacity of production in such form, as may be prescribed, along with the return of income, and the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288 certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

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

(I) “new industrial undertaking” means an undertaking which is not formed,—

(a) by the splitting up, or the reconstruction, of a business already in existence; or

- (b) by the transfer to a new business of machinery or plant previously used for any purpose;
- (2) “installed capacity” means the capacity of production as existing on the 31st day of March, 2002.

#### **Amendment of section 33AC.**

**15.** In section 33AC of the Income-tax Act, in sub-section (1), for the first proviso, the following proviso shall be substituted with effect from the 1st day of April, 2003, namely:—

“**Provided** that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the aggregate of the amounts of the paid-up share capital, the general reserves and amount credited to the share premium account of the assessee, no allowance under this sub-section shall be made in respect of such excess.”.

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

**16.** In section 35AC of the Income-tax Act, after sub-section (5) and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of April, 2003, namely :—

“(6) Notwithstanding anything contained in any other provision of this Act, where—

- (i) the approval of the National Committee, granted to an association or institution, is withdrawn under sub-section (4) or the notification in respect of eligible project or scheme is withdrawn in the case of a public sector company or local authority or an association or institution under sub-section (5); or
- (ii) a company has claimed deduction under the proviso to sub-section (1) in respect of any expenditure incurred directly on the eligible project or scheme and the approval for such project or scheme is withdrawn by the National Committee under sub-section (5),

the total amount of the payment received by the public sector company or the local authority or the association or the institution, as the case may be, in respect of which such company or authority or association or institution has furnished a certificate referred to in clause (a) of sub-section (2) or the deduction claimed by a company under the proviso to sub-section (1) shall be deemed to be the income of such company or authority or association or institution, as the case may be, for the previous year in which such approval or notification is withdrawn and tax shall be charged on such income at the maximum marginal rate in force for that year.”.

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

**17.** In section 35CCB of the Income-tax Act, in sub-section (1), in the opening portion, for the words “Where an assessee incurs any expenditure”, the words, figures and letters “Where an assessee incurs any expenditure on or before the 31st day of March, 2002” shall be substituted with effect from the 1st day of April, 2003.



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

**18.** In section 35DDA of the Income-tax Act, for sub-section (2), the following sub-sections shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—

“(2) Where the assessee, being an Indian company, is entitled to the deduction under sub-section (1) and the undertaking of such Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another Indian company in a scheme of amalgamation, the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

(3) Where the undertaking of an Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another company in a scheme of demerger, the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.

(4) Where there has been reorganisation of business, whereby a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, the provisions of this section shall, as far as may be, apply to the successor company, as they would have applied to the firm or the proprietary concern, if reorganisation of business had not taken place.

(5) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) in the case of the amalgamating company referred to in sub-section (2), in the case of demerged company referred to in sub-section (3) and in the case of a firm or proprietary concern referred to in sub-section (4) of this section, for the previous year in which amalgamation, demerger or succession, as the case may be, takes place.

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

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

**19.** In section 36 of the Income-tax Act, in sub-section (1), in clause (viiia), with effect from the 1st day of April, 2003,—

(i) in sub-clause (a),—

(A) for the words “not exceeding five per cent”, the words “not exceeding seven and one-half per cent” shall be substituted;

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

‘**Provided further** that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the

provisions of the first proviso shall have effect as if for the words “five per cent”, the words “ten per cent” had been substituted.’;

(ii) in sub-clause (c), the following proviso shall be inserted, namely:—

“**Provided** that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year.”.

#### **Amendment of section 40.**

**20.** In section 40 of the Income-tax Act,—

(i) in clause (a), after sub-clause (iv), the following sub-clause shall be inserted with effect from the 1st day of April, 2003, namely:—

“(v) any tax actually paid by an employer referred to in clause (10CC) of section 10;”;

(ii) in clause (b), in sub-clause (iv), for the words “eighteen per cent”, the words “twelve per cent” shall be substituted with effect from the 1st day of June, 2002.

#### **Substitution of new section for section 43A.**

**21.** For section 43A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2003, namely:—

‘43A. *Special provisions consequential to changes in rate of exchange of currency.*— Notwithstanding anything contained in any other provision of this Act, where an assessee has acquired any asset in any previous year from a country outside India for the purposes of his business or profession and, in consequence of a change in the rate of exchange during any previous year after the acquisition of such asset, there is an increase or reduction in the liability of the assessee as expressed in Indian currency (as compared to the liability existing at the time of acquisition of the asset) at the time of making payment—

(a) towards the whole or a part of the cost of the asset; or

(b) towards repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset along with interest, if any,

the amount by which the liability as aforesaid is so increased or reduced during such previous year and which is taken into account at the time of making the payment, irrespective of the method of accounting adopted by the assessee, shall be added to, or, as the case may be, deducted from—

(i) the actual cost of the asset as defined in clause (1) of section 43; or

(ii) the amount of expenditure of a capital nature referred to in clause (iv) of sub-section (1) of section 35; or

- (iii) the amount of expenditure of a capital nature referred to in section 35A; or
- (iv) the amount of expenditure of a capital nature referred to in clause (ix) of sub-section (1) of section 36; or
- (v) the cost of acquisition of a capital asset (not being a capital asset referred to in section 50) for the purposes of section 48,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset as aforesaid:

**Provided** that where an addition to or deduction from the actual cost or expenditure or cost of acquisition has been made under this section, as it stood immediately before its substitution by the Finance Act, 2002, on account of an increase or reduction in the liability as aforesaid, the amount to be added to, or, as the case may be, deducted under this section from, the actual cost or expenditure or cost of acquisition at the time of making the payment shall be so adjusted that the total amount added to, or, as the case may be, deducted from, the actual cost or expenditure or cost of acquisition, is equal to the increase or reduction in the aforesaid liability taken into account at the time of making payment.

*Explanation 1.*—In this section, unless the context otherwise requires,—

- (a) “rate of exchange” means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;
- (b) “foreign currency” and “Indian currency” have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

*Explanation 2.*—Where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this section.

*Explanation 3.*—Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999), for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the *liability* aforesaid, be computed with reference to the rate of exchange specified therein.’.

#### **Amendment of section 44AE.**

**22.** In section 44AE of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2003,—

- (a) in clause (i), for the words “two thousand rupees”, the words “three thousand five hundred rupees” shall be substituted;
- (b) in clause (ii), for the words “one thousand eight hundred rupees”, the words “three thousand one hundred and fifty rupees” shall be substituted.

## **CHAPTER VII**

### **MISCELLANEOUS**

#### **Omission of section 43A of Act 31 of 1956.**

**157.** Section 43A of the Life Insurance Corporation Act, 1956 shall be omitted with effect from the 1st day of June, 2002.

#### **Omission of section 35A of Act 57 of 1972.**

**158.** Section 35A of the General Insurance Business (Nationalisation) Act, 1972 shall be omitted with effect from the 1st day of June, 2002.

#### **Omission of section 22A of Act 47 of 1974.**

**159.** In the Oil Industry (Development) Act, 1974 (47 of 1974) [hereinafter referred to as the Oil Industry (Development) Act], section 22A shall be omitted with effect from the 1st day of April, 2003;

#### **Amendment of the Schedule to Act 47 of 1974.**

**160.** In the Schedule to the Oil Industry (Development) Act, against Sl. No.1 relating to crude oil , for the entry in column 3, the entry “Rupees two thousand per tonne.” shall be substituted.

#### **Amendment of notification issued under sub-section (4) of section 15 of the Oil Industry (Development) Act read with section 5A of the Central Excise Act.**

**161.** (1) The notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S.O. 417(E), dated the 12th April, 2002 issued under sub-section (4) of section 15 of the Oil Industry (Development) Act read with section 5A of the Central Excise Act, by the Central Government, shall be deemed to have come into force on and from the 1st day of March, 2002 retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be and always to have been, for all purposes, as validly or effectively taken or done as if the notification as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to exempt the goods specified in the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to exempt the said goods under sub-section (4) of section 15 of the Oil Industry (Development) Act read with section 5A of the Central Excise Act, retrospectively, at all material times.

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

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the duty of excise under sub-section (3) shall be made within one year from the date on which the Finance Bill, 2002 receives the assent of the President.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would have been so punishable if the notification referred to in this section had not been amended retrospectively by this section.

**Omission of section 44 of Act 37 of 1987.**

**162.** Section 44 of the National Dairy Development Board Act, 1987 shall be omitted with effect from the 1st day of April, 2003.

**Omission of section 22 of Act 25 of 1990.**

**163.** Section 22 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 shall be omitted with effect from the 1st day of April, 2003.

**THE FIRST SCHEDULE**

(See section 2)

# PART I

**INCOME-TAX**

*Paragraph A*

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

*Rates of income-tax*

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

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 or section 113 shall,—

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of two per cent of such income-tax;

- (ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of two per cent of such income-tax:

**Provided** that in case of persons mentioned in item (i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

#### *Paragraph B*

In the case of every co-operative society,—

##### *Rates of income-tax*

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

##### *Surcharge on income-tax*

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

#### *Paragraph C*

In the case of every firm,—

##### *Rate of income-tax*

On the whole of the total income	35 per cent.
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##### *Surcharge on income-tax*

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

#### *Paragraph D*

In the case of every local authority,—

##### *Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

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

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 35 per cent of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent;

(ii) on the balance, if any, of the total income 48 per cent.

*Surcharge on income-tax*

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

## PART II



**RATES FOR DEDUCTION OF TAX AT SOURCE  
IN CERTAIN CASES**

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

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**Rate of income-tax**

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**1. In the case of a person other than a company—**

**(a) where the person is resident in India—**

- |   |              |
|---|--------------|
| (i) on income by way of interest other than "Interest on securities"  | 10 per cent; |
| (ii) on income by way of dividend   | 10 per cent; |
| (iii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort  | 30 per cent; |
| (iv) on income by way of winnings from horse races  | 30 per cent; |
| (v) on income by way of insurance commission  | 10 per cent; |
| (vi) on income by way of interest payable on—   | 10 per cent; |
| (A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;         |              |
| (B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder |              |
| (vii) on any other income   | 20 per cent; |

**(b) where the person is not resident in India—**

**(i) in the case of a non-resident Indian—**

- |   |              |
|---|--------------|
| (A) on any investment income  | 20 per cent; |
| (B) on income by way of long-term capital gains referred to in section 115E   | 10 per cent; |
| (C) on other income by way of long-term capital gains   | 20 per cent; |
| (D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency | 20 per cent; |

- |     |  |              |
|-----|--|--------------|
| (E) | on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent; |
| (F) | on income by way of winnings from horse races  | 30 per cent; |
| (G) | on the whole of the other income   | 30 per cent; |
- (ii) in the case of any other person—
- |     |   |              |
|-----|---|--------------|
| (A) | on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency | 20 per cent; |
| (B) | on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort  | 30 per cent; |
| (C) | on income by way of winnings from horse races   | 30 per cent; |
| (D) | on income by way of long-term capital gains   | 20 per cent; |
| (E) | on the whole of the other income  | 30 per cent. |

2. In the case of a company—

(a) where the company is a domestic company—

- |       |  |              |
|-------|--|--------------|
| (i)   | on income by way of interest other than "Interest on securities"                                       | 20 per cent; |
| (ii)  | on income by way of dividend   | 10 per cent; |
| (iii) | on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort | 30 per cent; |
| (iv)  | on income by way of winnings from horse races  | 30 per cent; |
| (v)   | on any other income  | 20 per cent; |

(b) where the company is not a domestic company—

- |       |  |              |
|-------|--|--------------|
| (i)   | on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort   | 30 per cent; |
| (ii)  | on income by way of winnings from horse races  | 30 per cent; |
| (iii) | on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency  | 20 per cent; |
| (iv)  | on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights |              |

(including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

- (A) where the agreement is made before the 1<sup>st</sup> day of June, 1997 30 per cent;
- (B) where the agreement is made on or after the 1st day of June, 1997 20 per cent;
- (v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy
  - (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 50 per cent
  - (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 30 per cent
  - (C) where the agreement is made on or after the 1st day of June, 1997 20 per cent
- (vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
  - (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 50 per cent
  - (B) where the agreement is made after the 31st day of March, 1976 but before the 1st

day of June, 1997

- |        |   |              |
|--------|---|--------------|
| (C)    | where the agreement is made on or after the 1st day of June, 1997 | 20 per cent; |
| (vii)  | on income by way of long-term capital gains                       | 20 per cent; |
| (viii) | on any other income   | 40 per cent. |

*Explanation.*—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

#### *Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of this Part shall be increased by a surcharge, for purposes of the Union, calculated at the rate of five per cent of such income-tax.

## **PART III**

### **RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”**

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such “advance tax” in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBB or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

#### *Paragraph A*

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

#### *Rates of income-tax*

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

the total income exceeds Rs. 1,50,000.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 shall,—

- (i) in the case of every individual or Hindu undivided family, or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax;
- (ii) in the case of every person other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax:

**Provided** that in case of persons mentioned in item (i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

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

*Surcharge on income-tax*

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

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 35 per cent.

*Surcharge on income-tax*

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

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

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

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 35 per cent of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent;

- (ii) on the balance, if any, of the total income 40 per cent.

#### *Surcharge on income-tax*

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

### **PART IV**

[See section 2(10)(c)]

### **RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME**

*Rule 1.*—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from other sources” and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

**Provided** that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

*Rule 2.*—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head “Profits and gains of business or profession” and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

*Rule 3.*—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from house property” and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

*Rule 4.*—Notwithstanding anything contained in any other provisions of these rules, in a case—

- (a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee;
- (b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) of technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the



Income-tax Rules, 1962, and sixty-five per cent of such income shall be regarded as the agricultural income of the assessee;

- (c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee.

*Rule 5.*—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family or a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

*Rule 6.*—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

**Provided** that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

*Rule 7.*—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

*Rule 8.*—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2002, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the

1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001,

- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2002.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2003 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 that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the

1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,

- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2003.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

*Rule 9.*—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

*Rule 10.*—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

*Rule 11.*—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

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