

Finance Act, 1989

Section 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, 1989, income-tax shall be charged at the rates specified in Part I of the First Schedule and 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 Sub-Paragraph I or Sub-Paragraph II of 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, -

(i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve 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, -

(i) in a case to which the said Sub-Paragraph I applies, the first eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve 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 Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased, -

(A) in a case to which the said Sub-Paragraph I applies, by a sum of eighteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of twelve 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 Sub-Paragraph I or, as the case may be, Sub-Paragraph II of 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 the 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 shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax 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, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be :

Provided that in respect of any income chargeable to tax under section 115B or section 115BB of the Income-tax Act, the income-tax computed under section 115B or section 115BB shall be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

(4) In cases in which tax has to be 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, -

(a) in the cases to which the provisions of sub-item (a) of item 1 of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(5) In cases in which tax has to be deducted under section 194C of the Income-tax Act, the deduction shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such deduction.

(6) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rate specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such collection.

(7) Subject to the provisions of sub-section (8) in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or 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 said 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 calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and 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 :

Provided that 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, "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 in respect of any income chargeable to tax under section 115B of the Income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such "advance tax".

(8) In the cases to which Sub-Paragraph I or Sub-Paragraph II or 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 six hundred rupees, in addition to total income and the total income exceeds, -

(i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees,

then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or 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, -

(i) in a case to which the said Sub-Paragraph I applies, the first eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve thousand rupees,

of the total income but without being liable to tax], only for the purpose of calculating, 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 calculated, 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 Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased, -

(A) in a case to which the said Sub-Paragraph I applies, by a sum of eighteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of twelve 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 Sub-Paragraph I or, as the

case may be, the said Sub-Paragraph II as if the net agricultural income as so increased 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 shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax or, as the case may be, "advance tax" 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.

(9) For the purposes of this section and the First Schedule, -

(a) "company in which the public are substantially interested" means a company within the meaning of clause (18) of section 2 of the Income-tax Act, and includes a subsidiary of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year;

(b) "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, 1989, 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 in accordance with the provisions of section 194 of the Act;

(c) "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);

(d) "investment company" means a company whose gross total income (as defined in section 80B of the Income-tax Act) consists mainly of income which is chargeable under the heads "Income from house property", "Capital gains" and "Income from other sources" or of income by way of interest on securities;

(e) "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;

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(g) "trading company" means a company whose business consists mainly in dealing in goods or merchandise manufactured, produced or processed by a person other than that company and whose income attributable to such business included in its gross total income (as defined in section 80B of the Income-tax Act) is not less than fifty-one per cent. of the amount of such gross total income;

(h) all other words and expressions used in this section or 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.
