Finance Act, 1992

Chapter III - Direct Taxes Income-tax

In section 2 of the Income-tax Act, -

(a) in clause (18), after sub-clause (ac), the following sub-clause shall be inserted with effect from the 1st day of April, 1993, namely :-

"(ad) if it is a company, wherein shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies;";

(b) in clause (24), after sub-clause (vd), the following sub-clause shall be inserted with effect from the 1st day of April, 1993, namely :-

"(ve) any sum chargeable to income-tax under clause (v) of section 28;";

(c) in clause (37A), for sub-clause (iii), the following sub-clause shall be substituted with effect from the 1st day of June, 1992, namely :-

"(iii) for the purposes of deduction of tax under section 195, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 90, whichever is applicable by virtue of the provisions of section 90;";

(d) clause (39) shall be omitted with effect from the 1st day of April, 1993;

(e) clause (48) shall be omitted with effect from the 1st day of April, 1993.

Section 4 - Amendment Of Section 10

In section 10 of the Income-tax Act, -

(a) after clause (2), the following clause shall be inserted with effect from the 1st day of April, 1993, namely :-

"(2A) in the case of a person being a partner of a firm which is separately assessed as such, his share in the total income of the firm.

Explanation : For the purposes of this clause, the share of a partner in the total income of a firm separately assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits;";

(b) in clause (3), in the proviso, -

(i) for the words "Provided that", the following shall be substituted, namely :-

'Provided that where such receipts relate to winnings from races including horse races, the provisions of this clause shall have effect as if for the words "five thousand rupees", the words "two thousand five hundred rupees" had been substituted :

Provided further that';

(ii) in clause (iii), the words "or", occurring at the end, shall be omitted;

(iii) clause (iv) shall be omitted;

(c) in clause (6), in sub-clause (viia), with effect from the 1st day of June, 1992, -

(a) for the portion beginning with the words "the following conditions are fulfilled, namely, that -" and ending with the words "six months of such commencement", the following shall be substituted, namely :-

"the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India,";

(b) the first proviso shall be omitted;

(c) in the second proviso, -

(i) the word "further" shall be omitted;

(ii) for the words, brackets and figure "condition specified in item (1) of", the words "condition relating to non-residence in India as specified in" shall be substituted;

(d) in clause (6A), for the words "and approved by the Central Government, the tax on such income is payable, under the terms of such agreement, by Government or the Indian concern to the Central Government, the tax so paid", the following shall be substituted with effect from the 1st day of June, 1992, namely :-

"and, -

(a) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy; and

(b) in any other case, the agreement is approved by the Central Government,

the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid";

(e) after clause (10B), the following clause shall be inserted, namely :-

"(10BB) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985) and any scheme framed thereunder except payment made to any assessee in connection with the Bhopal gas leak disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster;";

(f) for clause (10C), the following clause shall be substituted, with effect from the 1st day of April, 1993, namely :-

"(10C) any amount received by an employee of a public sector company or of any other company at the time of his voluntary retirement in accordance with any scheme or schemes of voluntary retirement :

Provided that the schemes of the said companies governing the payment of such amount are framed in accordance with such guidelines as may be prescribed for the public sector companies or for other companies and such guidelines may, inter alia, include criteria of economic viability and such schemes in relation to companies (other than public sector companies) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf;";

(g) in clause (15), in sub-clause (iv), in item (d), after the words and figures "National Housing Bank Act, 1987 (53 of 1987),", the words and figures "or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989)," shall be inserted;

(h) in clause (21), for clause (b) of the first proviso, the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1990, namely :-

"(b) does not invest or deposit its funds, other than -

(i) any assets held by the scientific research association where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the scientific research association before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the scientific research association;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 :";

(i) in clause (23), -

(1) for clause (b) of the third proviso, the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1990, namely :-

"(b) does not invest or deposit its funds, other than -

(i) any assets held by the association or institution where such assets form part of the corpus of the fund of the association or institution as on the 1st day of June, 1973;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the association or institution before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the association or institution;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and";

(2) in the fourth proviso, for the figures "1992", the figures "1993" shall be substituted;

(j) in clause (23C), -

(1) for clause (b) of the third proviso, the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1990, namely :-

"(b) does not invest or deposit its funds, other than -

(i) any assets held by the fund, trust or institution where such assets form part of the corpus of the fund, trust or institution as on the 1st day of June, 1973;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus mentioned in sub-clause (i), by way of bonus shares allotted to the fund, trust or institution;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;";

(2) in the fourth proviso, for the figures "1992", the figures "1993" shall be substituted;

(k) in clause (23D), with effect from the 1st day of April, 1993, -

(i) after the words "public financial institution", the words "or authorised by the Securities and Exchange Board of India or the Reserve Bank of India" shall be inserted;

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

'(c) the expression "Securities and Exchange Board of India" shall have the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);';

(l) after clause (26B), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely :-

"(27) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (26B) :

Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;";

(m) after clause (31), the following clause shall be inserted with effect from the 1st day of April, 1993, namely :-

"(32) in the case of an assessee referred to in sub-section (1A) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible.".

Section 5 - Amendment Of Section 13

In section 13 of the Income-tax Act, in sub-section (1), in clause (d), in the proviso, -

(i) in clause (i), the words "and such assets were not purchased by the trust or institution or acquired by it by conversation of, or in exchange for, any other asset" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1983;

(ii) after clause (i), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1983, namely :-

"(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;";

(iii) in clause (iia), for the figures "1992", the figures "1993" shall be substituted.

Section 6 - Amendment Of Section 15

In section 15 of the Income-tax Act, the Explanation shall be renumbered as Explanation 1, and after Explanation 1 as so renumbered, the following Explanation shall be inserted with from the 1st day of April, 1993, namely :-

'Explanation 2 : Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as "salary" for the purposes of this section.'.

Section 7 - Amendment Of Section 16

In section 16 of the Income-tax Act, in clause (i), before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 1993, namely :-

'Provided that in the case of an assessee, being a woman, whose total income before making any deduction under this clause does not exceed seventy-five thousand rupees, the provisions of this clause shall have effect as if for the words "twelve thousand rupees", the words "fifteen thousand rupees" had been substituted.'.

Section 8 - Amendment Of Section 17

In section 17 of the Income-tax Act, in clause (2), with effect from the 1st day of April, 1993, -

(1) in the proviso, -

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

"(ii) any sum paid by the employer -

(a) in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(b) directly to a hospital, approved by the Chief Commissioner having regard to the prescribed guidelines for the purposes of medical treatment of the prescribed diseases or ailments, on account of such treatment of the employee or any member of his family;";

(b) in clause (vi), for the words "one lakh rupees", the words "two lakh rupees" shall be substituted;

(2) in the Explanation, in clause (i), after the words "or a clinic", the words "or a nursing home" shall be inserted.

Section 9 - Amendment Of Section 23

In section 23 of the Income-tax Act, in sub-section (1), in clause (d) of the second proviso, after the figures, letters and words "31st day of March, 1982", the words, figures and letters "but before the 1st day of April, 1992" shall be inserted with effect from the 1st day of April, 1993.

Section 10 - Amendment Of Section 24

In section 24 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1993, -

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

"(i) in respect of repairs of, and collection of rent from, the property, a sum equal to one-fifth of the annual value;";

(b) clause (viii) shall be omitted.

Section 11 - Amendment Of Section 28

In section 28 of the Income-tax Act, after clause (iv), the following clause shall be inserted with effect from the 1st day of April, 1993, namely :-

"(v) any interet, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm :

Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted.".

Section 12 - Amendment Of Section 33AC

In section 33AC of the Income-tax Act, with effect from the 1st day of April, 1993, -

(a) in sub-section (1), after the words "an assessee, being", the words "a Government company or" shall be inserted;

(b) in the Explanation, after clause (a), the following clause shall be inserted, namely :-

'(aa) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956);'.

Section 13 - Insertion Of New Section 34A

After section 34 of the Income-tax Act, the following section shall be inserted, namely :-

"34A. Restriction on unabsorbed depreciation and unabsorbed investment allowance for limited period in case of certain domestic companies. -

(1) In computing the profits and gains of the business of a domestic company in relation to the previous year relevant to the assessment year commencing on the 1st day of April, 1992, where effect is to be given to the unabsorbed depreciation allowance or unabsorbed investment allowance or both in relation to any previous year relevant to the assessment year commencing on or before the 1st day of April, 1991, the deduction shall be restricted to two-thirds of such allowance or allowances and the balance, -

(a) where it relates to depreciation allowance, be added to the depreciation allowance for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, and be deemed to be part of that allowance or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year and so on for the succeeding previous years;

(b) where it relates to investment allowance, be carried forward to the assessment year commencing on the 1st day of April, 1993, and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and where the period of eight years has expired before the portion of such balance is adjusted, the said period shall be extended beyond eight years till such time the portion of the said balance is absorbed in the profits and gains of the business of the domestic company.

(2) For the assessment year commencing on the 1st day of April, 1992, the provisions of sub-section (2) of section 32 and sub-section (3) of section 32A shall apply to the extent such provisions are not inconsistent with the provisions of sub-section (1) of this section.

(3) Nothing contained in sub-section (1) shall apply where the amount of unabsorbed depreciation allowance or of the unabsorbed investment allowance, as the case may be, or the aggregate amount of such allowances in the case of a domestic company is less than one lakh rupees.

(4) Nothing contained in sections 234B and 234C shall apply to any shortfall in the payment of any tax due on the assessed tax or, as the case may be, returned income where such shortfall is on account of restricting the amount of depreciation allowance or investment allowance under this section and the assessee has paid the amount of shortfall before furnishing the return of income under sub-section (1) of section 139.".

Section 14 - Amendment Of Section 36

In section 36 of the Income-tax Act, in sub-section (1), in clause (viii), for the Explanation, the following Explanation shall be substituted and shall be deemed to have been substituted, with effect from the 1st day of April, 1987, namely :-

'Explanation : In this clause, -

(a) "financial corporation" shall include a public company and a Government company;

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

(c) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956).'.

Section 15 - Amendment Of Section 37

In section 37 of the Income-tax Act, for sub-sections (2) and (2A), the following sub-section shall be substituted with effect from the 1st day of April, 1993, namely :-

'(2) Notwithstanding anything contained in sub-section (1), any expenditure in the nature of entertainment expenditure incurred by any assessee during any previous year commencing on the 1st day of April, 1992 shall be allowed as follows :-

(a) where the amount of such expenditure does not exceed ten thousand rupees, the whole of such amount;

(b) in any other case, ten thousand rupees as increased by a sum equal to fifty per cent. of such expenditure in excess of ten thousand rupees.

Explanation : For the purposes of this sub-section, "entertainment expenditure" includes -

(i) the amount of any allowance in the nature of entertainment allowance paid by the assessee to any employee or other person;

(ii) the amount of any expenditure in the nature of entertainment expenditure [not being expenditure incurred out of an allowance of the nature referred to in clause (i)] incurred for the purposes of the business or profession of the assessee by any employee or other person;

(iii) expenditure on provision of hospitality of every kind by the assessee to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reson of any express or implied contract or custom or usage of trade, but does not include expenditure on food or beverages provided by the assessee to his employees in office, factory or other place of their work.'.

Section 16 - Amendment Of Section 40

In section 40 of the Income-tax Act, for clause (b), the following clause shall be substituted with effect from the 1st day of April, 1993, namely :-

'(b) in the case of any firm assessable as such, -

(i) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as remuneration) to any partner who is not a working partner; or

(ii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(iii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(iv) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed insofar as such amount exceeds the amount calculated at the rate of eighteen per cent. simple interest per annum; or

(v) any payment of remuneration to any partner who is a working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder :-

(1) in case of a firm carrying on a profession referred to in section 44AA or which is notified for the purpose

of that section -

(a) on the first Rs. 1,00,000 of the book-profit or in case of a loss book-profit, whichever is more;

Rs. 50,000 or at the rate of 90 per cent. of the

(b) on the next Rs. 1,00,000 of the book-profit

at the rate of 60 per cent.;

(c) on the balance of the book-profit

at the rate of 40 per cent.;

(2) in the case of any other firm -

(a) on the first Rs. 75,000 of the book-profit or in case of a loss whichever is more;

Rs. 50,000 or at the rate of 90 per cent. of the book-profit,

(b) on the next Rs. 75,000 of the book-profit

at the rate of 60 per cent.;

(c) on the balance of the book-profit

at the rate of 40 per cent. :

Provided that in relation to any payment under this clause to the partner during the previous year relevant to the assessment year commencing on the 1st day of April, 1993, the terms of the partnership deed may, at any time during the said previous year, provide for such payment.

Explanation 1 : Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively), -

(i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 2 : For the purposes of this clause, "book-profit" means than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

Explanation 3 : For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

Explanation 4 : For the purposes of this clause, "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;'.

Section 17 - Amendment Of Section 40A

In section 40A of the Income-tax Act, sub-section (12) shall be omitted with effect from the 1st day of April, 1993.

Section 18 - Amendment Of Section 41

In section 41 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, with effect from the 1st day of April, 1993, namely :-

'(1) where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year, -

(a) the first-mentioned person has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not; or

(b) the successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (a) by way of remission or cessation thereof, the amount obtained by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

Explanation : For the purposes of this sub-section, "successor in business" means -

(i) where there has been an amalgamation of a company with another company, the amalgamated company;

(ii) where the first-mentioned person is succeeded by any other person in that business or profession, the other person;

(iii) where a firm carrying on a business or profession is succeeded by another firm, the other firm.'.

Section 19 - Amendment Of Section 44AA

In section 44AA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1993, -

(a) for the words "twenty-five thousand", at both the places where they occur, the words "forty thousand" shall be substituted;

(b) for the words "two hundred and fifty thousand", at both the places where they occur, the words "five hundred thousand" shall be substituted.

Section 20 - Amendment Of Section 44AB

In section 44AB of the Income-tax Act, in the proviso, for the words "Provided that", the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1985, namely :-

"Provided that this section shall not apply to the person, who derives income of the nature referred to in section 44AC or section 44B or section 44BB or section 44BBA or section 44BBB, on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later :

Provided further that".

Section 21 - Omission Of Section 44AC

Section 44AC of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Section 22 - Amendment Of Section 45

In section 45 of the Income-tax Act, in sub-section (1), the figures "53", shall be omitted with from the 1st day of April, 1993.

Section 23 - Amendment Of Section 47

In section 47 of the Income-tax Act, -

(a) after clause (vi), the following clause shall be inserted, with effect from the 1st day of April, 1993, namely :-

"(via) any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if -

(a) at least twenty-five per cent. of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and

(b) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;";

(b) after clause (vii), the following clause shall be inserted, with effect from the 1st day of June, 1992, namely :-

"(viia) any transfer of a capital asset, being bonds or shares referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident;";

(c) in clause (x), for the words "conversion of debentures", the words "conversion of bonds or debentures" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1962.

Section 24 - Substitution Of New Section For Section 48

For section 48 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1993, namely :-

48. Mode of computation. - The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :-

(i) expenditure incurred wholly and exclusively in connection with such transfer;

(ii) the cost of acquisition of the asset and the cost of any improvement thereto :

Provided that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company :

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (ii) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted.

Explanation : For the purposes of this section, -

(i) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(ii) the conversion of India currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(iii) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st day of April, 1981, whichever is later;

(iv) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset book place;

(v) "Cost Inflation Index" for any year means such Index as the Central Government may, having regard to seventy-five per cent. of average rise in the Consumer Price Index for urban non-manual employees for that year, by notification in the Official Gazette, specify in this behalf.'.

Section 25 - Amendment Of Section 49

In section 49 of the Income-tax Act, in sub-section (1), in clause (iii), in sub-clause (e), after the word, brackets and figures "clause (vi)", the words, brackets, figures and letter "or clause (via)" shall be inserted with effect from the 1st day of April, 1993.

Section 26 - Omission Of Section 53

Section 53 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Section 27 - Amendment Of Section 54

In section 54 of the Income-tax Act, in sub-section (2), the Explanation shall be omitted with the effect from the 1st day of April, 1993.

Section 28 - Amendment Of Section 54B

In section 54B of the Income-tax Act, in sub-section (2), the Explanation shall be omitted with effect from the 1st day of April, 1993.

Section 29 - Amendment Of Section 54D

In section 54D of the Income-tax Act, in sub-section (2), the Explanation shall be omitted with effect from the 1st day of April, 1993.

Section 30 - Amendment Of Section 54E

In section 54E of the Income-tax Act, -

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

(a) after the words "long-term capital asset", the words, figures and letters "before the 1st day of April, 1992" shall be inserted;

(b) in the second proviso, the words, figures and letters "or the 31st day of March, 1992, whichever is earlier" shall be inserted at the end;

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

"(1C) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of the original asset, made after the 31st day of March, 1992, in respect of which the assessee had received any amount by way of advance on or before the 29th day of February, 1992, and had invested or deposited the whole or any part of such amount in the new asset on or before the later date, then, the provisions of clauses (a) and (b) of sub-section (1) shall apply in the case of such investment or deposit as they apply in the case of investment or deposit under that sub-section."

Section 31 - Amendment Of Section 54F

In section 54F of the Income-tax Act, in sub-section (4), the Explanation shall be omitted with effect from the 1st day of April, 1993.

Section 32 - Amendment Of Section 54G

In section 54G of the Income-tax Act, in sub-section (2), the Explanation shall be omitted with effect from the 1st day of April, 1993.

Section 33 - Amendment Of Section 54H

In section 54H of the Income-tax Act, the figures and letter ", 54E" shall be omitted.

Section 34 - Amendment Of Section 55

In section 55 of the Income-tax Act, with effect from the 1st day of April, 1993, -

(a) in sub-section (1), in clause (b), in sub-clause (2), in item (i), -

(i) for the figures "1974", the figures "1981" shall be substituted;

(ii) the words "and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee," shall be omitted;

(b) in sub-section (2), in clause (b), for the figures "1974", wherever they occur, the figures "1981" shall be substituted.

Section 35 - Amendment Of Section 64

In section 64 of the Income-tax Act, with effect from the 1st day of April, 1993, -

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

(i) clause (i) shall be omitted;

(ii) clauses (iii) and (v) shall be omitted;

(iii) in clause (iv), the words, brackets and figure "in a case not falling under clause (i) of this sub-section" shall be omitted;

(iv) in clause (vi), the words "or son's minor child,", wherever they occur, shall be omitted;

(v) in clause (vii), the words "or minor child or both" shall be omitted;

(vi) in clause (viii), the words "or son's minor child or both" shall be omitted;

(vii) for Explanations 1 and 1A, the following Explanation shall be substituted, namely :-

"Explanation 1 : For the purposes of clause (ii), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.";

(viii) Explanation 2A shall be omitted;

(ix) for Explanation 3, the following Explanation shall be substituted, namely :-

'Explanation 3 : For the purposes of clauses (iv) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this Explanation referred to as "the transferee") are invested by the transferee, -

(i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

(ii) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value on investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.';

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

"(1A) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child :

Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any -

(a) manual work done by him; or

(b) activity involving application of his skill, talent or specialised knowledge and experience.

Explanation : For the purposes of this sub-section, the income of the minor child shall be included, -

(a) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater; or

(b) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,

and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.";

(c) in sub-section (2), the words "or minor child", wherever they occur, shall be omitted.

Section 36 - Omission Of Section 67

Section 67 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1993.

Section 37 - Amendment Of Section 71

In section 71 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, with effect from the 1st day of April, 1993, namely :-

'(4) Notwithstanding anything contained in sub-sections (1) and (2), where in respect of any assessment year the net result of the computation, in relation to any property [other than the property referred to in sub-clause (i) of clause (a) of sub-section (2) of section 23], under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.'.

Section 38 - Insertion Of New Section 71A

After section 71 of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely :-

'71A. Carry forward of losses under the head "Income from house property". - Where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss, the loss in so far as it relates to interest on borrowed capital referred to in clause (vi) of sub-section (1) of section 24 shall be carried forward by the assessee to the following assessment year or years and set off against the income under that head.'.

Section 39 - Substitution Of New Section For Sections 75, 76 And 77

For sections 75, 76 and 77 of the Income-tax Act, the following section shall be substituted, with effect from the 1st day of April, 1993, namely :-

"75. Losses of firms. - Where the assessee is a firm, any loss in relation to the assessment year commencing on or before the 1st day of April, 1992, which could not set off against any other income of the firm and which had been apportioned to a partner of the firm but could not be set off by such partner prior to the assessment year commencing on the 1st day of April, 1993, then, such loss shall be allowed to set off against the income of the firm subject to the condition that the partner continues in the said firm and to be carried forward for set off under sections 70, 71, 72, 73, 74 and 74A.".

Section 40 - Amendment Of Section 78

In section 78 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, with effect from the 1st day of April, 1993, namely :-

"(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year."

Section 41 - Amendment Of Section 80A

In section 80A of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted, with effect from the 1st day of April, 1993, namely :-

"(3) Where, in computing the total income of an association of persons or a body of individuals, any deduction is admissible under section 80G or section 80GGA or section 80HH or section 80HHA 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA or section 80J or section 80JJ, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association of persons or body of individuals.".

Section 42 - Amendment Of Section 80CCA

In section 80CCA of the Income-tax Act, with effect from the 1st day of April, 1993, -

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

"Provided further that no deduction under this sub-section shall be allowed in relation to any amount deposited or paid under clauses (i) and (ii) on or after the 1st day of April, 1992.";

(b) in sub-section (2), the following proviso shall be inserted at the end, namely :-

"Provided that nothing contained in this sub-section shall apply to any amount received by the assessee on account of the surrender of the policy in accordance with the terms of the annuity plan of the Life Insurance Corporation where the assessee elects to surrender before the 1st day of October, 1992, the said annuity plan in respect of which he had paid any amount under clause (ii) of sub-section (1) before the 1st day of April, 1992.".

Section 43 - Amendment Of Section 80CCB

In section 80CCB of the Income-tax Act, in sub-section (1), the following proviso shall be inserted at the end, with effect from the 1st day of April, 1993, namely :-

"Provided that no deduction shall be allowed in relation to any amount invested under this sub-section on or after the 1st day of April, 1992.".

Section 44 - Amendment Of Section 80D

In section 80D of the Income-tax Act, in sub-section (1), for the words "three thousand rupees", wherever they occur, the words "six thousand rupees" shall be substituted with effect from the 1st day of April, 1993.

Section 45 - Amendment Of Section 80DD

In section 80DD of the Income-tax Act, with effect from the 1st day of April, 1993, -

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

(i) the brackets and figure "(1)" shall be omitted;

(ii) for the words "six thousand rupees", the words "twelve thousand rupees" shall be substituted;

(b) sub-section (2) shall be omitted.

Section 46 - Amendment Of Section 80HHC

In section 80HHC of the Income-tax Act, -

(a) in sub-section (1), in the proviso, for the words "total profits of the export business of the assessee the same proportion as the amount of export turnover specified in the said certificate bears to the total export turnover of the assessee", the words "total profits derived by the assessee from the export of trading goods, the same proportion as the amount of export turnover specified in the said certificate bears to the total export turnover of the assessee in respect of such trading goods" shall be substituted;

(b) in sub-section (3), for the words "manufactured by the assessee", wherever they occur, the words "manufactured or processed by the assessee" shall be substituted.

Section 47 - Amendment Of Section 80-IA

In section 80-IA of the Income-tax Act, in sub-section (12), for clause (f), the following clause shall be substituted, with effect from the 1st day of April, 1993, namely :-

'(f) "small-scale industrial undertaking" means an industrial undertaking which is, as on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951 (65 of 1951).'.

Section 48 - Amendment Of Section 80L

In section 80L of the Income-tax Act, the first and second provisos to sub-section (1) shall be omitted with effect from the 1st day of April, 1993.

Section 49 - Substitution Of New Section For Section 86

For section 86 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1993, namely :-

"86. Share of member of an association of persons or body individuals in the income of the association or body. - Where the assessee is a member of an association of persons or body of individuals (other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India), income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67A :

Provided that, -

(a) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(b) in any other case, the share of a member computed as aforesaid shall form part of his total income :

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case.".

Section 50 - Amendment Of Section 87

In section 87 of the Income-tax Act, with effect from the 1st day of April, 1993, -

(a) in sub-section (1), for the words, figures and letter "sections 88 and 88A", the words, figures and letters "section 88, 88A and 88B" shall be substituted;

(b) in sub-section (2), after the word, figures and letter "section 88A", the words, figures and letter "or section 88B" shall be inserted.

Section 51 - Amendment Of Section 88

In section 88 of the Income-tax Act, -

(i) in sub-section (1), the following proviso shall be inserted, with effect from the 1st day of April, 1993, namely :-

"Provided that in the case of an individual, whose income, derived from the exercise of his profession as an author, playwright, artist, musician, actor or sportsman (including an athlete), is twenty-five per cent. or more of his total income, the provisions of this sub-section shall have effect as if for the words "twenty per cent.", the words "twenty-five per cent." had been substituted.';

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

(a) in clause (ii), for the words, brackets, figures and letters "not being an annuity plan referred to in clause (ii) of sub-section (1) of section 80CCA", the words, brackets, figures and letter "not being an annuity plan referred to in clause (xiiia)" shall be substituted with effect from the 1st day of April, 1993;

(b) in clause (ix), after the words "the Central Government", the words "or any such deposit scheme" shall be inserted with effect from the 1st day of April, 1993;

(c) after clause (xiii), the following clauses shall be inserted, with effect from the 1st day of April, 1993, namely :-

"(xiiia) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation as the Central Government may, by notification in the Official Gazette, specify;

(xiiib) as subscription, not exceeding ten thousand rupees, to any units of any Mutual Fund notified under clause (23D) of section 10 or the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), under any plan formulated in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xiiic) as a contribution by an individual to any pension fund set up by any Mutual Fund notified under clause (23D) of section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;";

(d) in clause (xiv), after the words "as subscription to any such deposit scheme of", the words ", or as a contribution to any such pension fund set up by," shall be inserted with effect from the 1st day of April, 1993;

(e) in clause (xv), in sub-clause (c), in item (7), after the words "a local authority", the words "or a co-operative society" shall be inserted;

(iii) in sub-section (6), with effect from the 1st day of April, 1993, -

(a) in clause (i), for the words and brackets "being an author, playwright, artist, musician, actor or sportsman (including an athlete), fourteen thousand", the words and brackets "whose income derived from the exercise of his profession as an author, playwright, artist, musician, actor or sportsman (including an athlete), is twenty-five per cent. or more of his total income, seventeen thousand five hundred" shall be substituted;

(b) in clause (ii), for the words "ten thousand", the words "twelve thousand" shall be substituted.

Section 52 - Insertion Of New Section 88B

After section 88A of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely :-

'88B. Rebate of income-tax in case of individuals of sixty-five years and above. - An assessee, being an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and whose gross total income does not exceed fifty thousand rupees, shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to ten per cent. of such income-tax.

Explanation : For the purposes of this section, "gross total income" means the total income computed in accordance with the provisions of this Act, before making any deduction under Chapter VI-A.'.

Section 53 - Insertion Of New Section 112

After section 111 of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely :-

'112. Tax on long-term capital gains. - (1) Where the total income of an assessee includes any income, arising from the transfer of a long-term capital asset, which is chargeable under the head "Capital gains", the tax payable by the assessee on the total income shall be the aggregate of, -

(a) in the case of an individual or a Hindu undivided family, -

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income; and

(ii) the amount of income-tax calculated on such long-term capital gains at the rate of twenty per cent. :

Provided that where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such long-term capital gains shall be computed at the rate of twenty per cent.;

(b) in the case of a company, -

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains at the rate of forty per cent. :

Provided that in relation to long-term capital gains arising to a venture capital company from the transfer of equity shares of venture capital undertakings, the provisions of sub-clause (ii) shall have effect as if for the words "forty per cent.", the words "twenty per cent." had been substituted;

(c) in any other case, -

(i) the amount of income-tax payable on the total income as reduced by the amount of long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains at the rate thirty per cent.

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

(a) "venture capital company" means such company as is engaged in providing finance to venture capital undertakings mainly by way of acquiring equity shares of such undertakings or, if the circumstances so require, by way of advancing loans to such undertakings, and is approved by the Central Government in this behalf;

(b) "venture capital undertaking" means such company as the prescribed authority may, having regard to the following factors, approve for the purposes of this sub-section, namely :-

(1) the total investment in the company does not exceed ten crore rupees or such other higher amount as may be prescribed;

(2) the company does not have adequate financial resources to undertake projects for which it is otherwise professionally or technically equipped; and

(3) the company seeks to employ any technology which will result in significant improvement over the existing technology in India in any field and the investment in such technology involves high risk.

(2) Where the gross total income of an assessee includes any income arising from the transfer of a long-term capital asset, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(3) Where the total income of an assessee includes any income arising from the transfer of a long-term capital asset, the total income shall be reduced by the amount of such income and the rebate under section 88 shall be allowed from the income-tax on the total income as so reduced.'.

Section 54 - Amendment Of Section 115A

In section 115A of the Income-tax Act, with effect from the 1st day of June, 1992, -

(a) in sub-section (1), in clause (b), for the words "such agreement is approved by the Central Government", the words "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" shall be substituted;

(b) in sub-section (1A), for the words "and approved by the Central Government", the words "approved by the Central Government or where the agreement 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" shall be substituted.

Section 55 - Amendment Of Section 115AB

In section 115AB of the Income-tax Act, in the sub-section (2), in clause (a), with effect from the 1st day of April, 1993, -

(i) the words, brackets and figures "or sub-section (2) of section 48" shall be omitted;

(ii) after the word, figures and letter "Chapter VI-A", the words, figures, brackets and letter "and nothing contained in the provisions of the second proviso to section 48 shall apply to income referred to in clause (b) of sub-section (1)" shall be inserted.

Section 56 - Insertion Of New Section 115AC

After section 115AB of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1993, namely :-

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

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

(b) income by way of long-term capital gains arising from the transfer of bonds or, as the case may be, shares referred to in clause (a),

the income-tax payable shall be the aggregate of -

(i) the amount of income-tax calculated on the income by way of interest or dividends, as the case may be, in respect of bonds or shares referred to in clause (a), if any, included in the total income, at the rate of ten per cent.;

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

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

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

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

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

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

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

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

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

Section 57 - Amendment Of Section 115D

In section 115D of the Income-tax Act, in sub-section (2), in clause (a), for the words, brackets, figures and letter "under sub-section (2) of section 48 or under Chapter VI-A", the words, figures and letter 'under Chapter VI-A and nothing contained in the provisions of the second proviso to section 48 shall apply to income chargeable under the head "Capital gains"' shall be substituted with effect from the 1st day of April, 1993.

Section 58 - Insertion Of New Chapter XII-C

After Chapter XII-B of the Income-tax Act, the following Chapter shall be inserted, with effect from the 1st day of April, 1993, namely :-