

Finance Act, 1981

Chapter III - Direct Taxes

Section 3 - Insertion Of New Section 10a

After section 10 of the Income-tax Act, the following section shall be inserted, namely :-

'10A. Special provision in respect of newly established industrial undertakings in free trade zones. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking to which this section applies shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :-

(i) it has begun or begins to manufacture or produce articles or things during the previous year relevant to the assessment year commencing on or after the 1st day of April, 1981 in any free trade zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation : The provisions of Explanation 1 and Explanation 2 to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things (such assessment year being hereafter in this section referred to as the initial assessment year) and each of the four assessment years immediately succeeding the initial assessment year.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year relevant to any subsequent assessment year, -

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) of section 74 and no deficiency referred to in sub-section (3) of section 80J, in so far as such loss or deficiency relates to the business of the industrial undertaking, shall be carried forward or set off where such loss, or, as the case may be, deficiency relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80J in relation to the profits and gains of the industrial undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) Where an industrial undertaking in any free trade zone has begun to manufacture or produce articles or things in any previous year relevant to the assessment year commencing on or after the 1st day of April, 1977 but before the 1st day of April, 1981, the assessee may, at his option, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the assessment year commencing on the 1st day of April, 1981 furnish to the Income-tax Officer a declaration in writing that the provisions of sub-section (1) may be made applicable to him for each of the relevant assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1981 and if he does so, then, the provisions of sub-section (1) shall apply to him for each of such relevant assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of the relevant assessment years and any subsequent assessment year.

(6) the provisions of sub-section (8) and sub-section (9) of section 80-I shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-I.

(7) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the initial assessment year, furnishes to the Income-tax Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

Explanation : For the purposes of this section, -

(i) "free trade zone" means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(ii) "relevant assessment years" means the initial assessment year and four assessment year immediately succeeding the initial assessment year.'

Section 4 - Amendment Of Section 16

In section 16 of the Income-tax Act, in clause (i), with effect from the 1st day of April 1982, -

(a) for the portion beginning with the words "a sum calculated" and ending with the word "whichever is less", the following shall be substituted, namely :-

"a sum equal to twenty per cent. of the salary or five thousand rupees, whichever is less";

(b) in the proviso, clause (i) shall be omitted.

Section 5 - Amendment Of Section 32a

In section 32A of the Income-tax Act, in clause (2) of the Explanation below sub-section (2), for the words "the business of the undertaking does not exceed ten lakh rupees; and for this purpose the value of any machinery or plant shall be, -", the following shall be substituted, namely :-

"the business of the undertaking does not exceed, -

(i) in a case where the previous year ends before the 1st day of August, 1980, ten lakh rupees; and

(ii) in a case where the previous year ends after the 31st day of July, 1980, twenty lakh rupees, and for this purpose the value of any machinery or plant shall be, -".

Section 6 - Amendment Of Section 33a

In section 33A of the Income-tax Act, in sub-section (7), for the proviso, the following proviso and Explanation shall be substituted with effect from the 1st day of April, 1982, namely :-

'Provided that where such cost exceeds -

(i) forty thousand rupees per hectare in respect of and situate in a hilly area comprised in the district of Darjeeling;
or

(ii) thirty-five thousand rupees per hectare in respect of land situate in a hilly area comprised in an area other than the district of Darjeeling; or

(iii) thirty thousand rupees per hectare in any other area, then, the excess shall be ignored.

Explanation : For the purposes of this proviso, "district of Darjeeling" means the district of Darjeeling as on the 28th day of February, 1981, being the date of introduction of the Finance Bill, 1981 in the House of the People.'

Section 7 - Amendment Of Section 36

In section 36 of the Income-tax Act, in sub-section (1) in clause (viii), in the second proviso, after the words "time to time exceeds", the words "twice the amount of" shall be inserted with effect from the 1st day of April, 1982.

Section 8 - Amendment Of Section 42

In section 42 of the Income-tax Act, -

(a) in the opening portion, for the words "the association or participation in such business of the Central Government", the words "the association or participation of the Central Government or any person authorised by it in such business" shall be substituted;

(b) in clause (b), -

(i) the word "and" occurring at the end shall be omitted;

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

'Provided that in relation to any agreement entered into after the 31st day of March, 1981, this clause shall have effect subject to the modification that the words and figures "except assets on which allowance for depreciation is admissible under section 32" had been omitted; and';

(c) the following Explanation shall be inserted at the end, namely :-

'Explanation : For the purposes of this section, "mineral oil" includes petroleum and natural gas.'

Section 9 - Amendment Of Section 80d

In section 80D of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1982, -

(a) in clause (i), for the words "two thousand four hundred rupees", the words "four thousand eight hundred rupees" shall be substituted;

(b) in clause (ii), for the words "six hundred rupees", the words "one thousand two hundred rupees" shall be substituted;

(c) the words "as reduced, in either case, by an amount equal to the income, if any, of the handicapped dependant in respect of the previous year : " shall be omitted;

(d) the proviso shall be omitted.

Section 10 - Amendment Of Section 80hha

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

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

(i) for the words "in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the small-scale industrial undertaking", the words "of each of the ten previous years beginning with the previous year in which the industrial undertaking" shall be substituted;

(ii) the following proviso shall be inserted at the end, namely :-

"Provided that such deduction shall not be allowed in computing the total income of any of the ten previous years aforesaid in respect of which the industrial undertaking is not a small-scale industrial undertaking within the meaning of clause (b) of the Explanation below sub-section (8).";

(b) in sub-section (8), in clause (b) of the Explanation, for the words "the business of the undertaking does not exceed ten lakh rupees; and for this purpose the value of any machinery or plant shall be, -", the following shall be substituted, namely :-

"the business of the undertaking does not exceed, -

(1) in a case where the previous year ends before the 1st day of August, 1980, ten lakh rupees; and

(2) in a case where the previous year ends after the 31st day of July, 1980, twenty lakh rupees, and for this purpose the value of any machinery or plant shall be, -".

Section 11 - Amendment Of Section 80m

In section 80M of the Income-tax Act, in sub-section (1), in clause (a), for the figures and word "27 and 29", the figures and word "27, 29 and 33" shall be substituted with effect from the 1st day of April, 1982.

Section 12 - Amendment Of Section 80qq

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

(a) in sub-section (1), for the words "nine assessment years", the words "fourteen assessment years" shall be substituted;

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

(i) for the words, figures and letters "section 80HHA or", the words, figures and letter "section 80HHA or section 80-I

or" shall be substituted;

(ii) for the words, figures and letter "section 80J and", the words, figures and letter "section 80-I, section 80J and" shall be substituted.

Section 13 - Amendment Of Section 86

In section 86 of the Income-tax Act, in clause (v), the following Explanation shall be inserted, namely :-

"Explanation : For the purposes of this clause, in the case of an association of persons which is assessable under section 167A, each of the members of the association whose shares in the income or, as the case may be, part of the income of such association are indeterminate or Unknown, shall be deemed to be entitled to receive an equal share in the total income or as the case may be, such part of the total income of the association and the individual share of such member in such total income or, as the case may be, Part of the total income shall be determined accordingly."

Section 14 - Amendment Of Section 160

In section 160 of the Income-tax Act, in sub-section (1), after clause (iv), the following clause and Explanations shall be inserted, namely :-

'(v) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.

Explanation 1 : A trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validation Act, 1913 (6 of 1913)] shall be deemed, for the purposes of clause (iv), to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Income-tax Officer, -

(i) where the trust has been declared before the 1st day of June, 1981, within a period of three months from that day; and

(ii) in any other case, within three months from the date of declaration of the trust.

Explanation 2 : For the purposes of clause (v), "oral trust" means a trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913)] and which is not deemed under Explanation 1 to be a trust declared by a duly executed instrument in writing.'

Section 15 - Insertion Of New Section 164a

After section 164 of the Income-tax Act, the following section shall be inserted, namely :-

'164A. Charge of tax in case of oral trust. Where a trustee receives or is entitled to receive any income on behalf or for the benefit of any person under an oral trust, then, notwithstanding anything contained in any other provision of this Act, tax shall be charged on such income at the maximum marginal rate.

Explanation : For the purposes of this section, -

(i) "maximum marginal rate" shall have the meaning assigned to it in Explanation 2 below sub-section (3) of section 164;

(ii) "oral trust" shall have the meaning assigned to it in Explanation 2 below sub-section (1) of section 160.'

Section 16 - Insertion Of New Section 167a

In Chapter XV of the Income-tax Act, after section 167, and before the sub-heading "E. Executors", the following sub-heading and section shall be inserted, namely :-

"DD. Associations of persons special cases

167A. Charge of tax where shares of members unknown. (1) Where the individual shares of the members of an association of persons (other than a Company or co-operative society) in the income of such association are indeterminate or unknown, tax shall be charged on the total income of the association at the maximum marginal rate.

(2) Where the individual shares of the members of an association of persons (other than a company or co-operative society) in any part of the income of such association are indeterminate or unknown, the income-tax payable by the association shall be the aggregate of -

(i) the amount of income-tax calculated on the aforesaid part of the total income, at the maximum marginal rate; and

(ii) the amount of income-tax with which it would have been chargeable had the remaining part of the total

income been its total income.

Explanation : For the purposes of the section, -

(a) "maximum marginal rate" shall have the meaning assigned to it in Explanation 2 below sub-section (3) of section 164;

(b) the individual shares of the members of an association of persons in the income of such association shall be deemed to be indeterminate or unknown if such shares are indeterminate or unknown on the date of formation of such association or at any time thereafter.'

Section 17 - Amendment Of Section 208

In section 208 of the Income-tax Act, in sub-section (2), for clause (c), the following clauses shall be substituted with effect from the 1st day of June, 1981, namely :-

"(c) in the case of a Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year exceeds Rs. 15,000 Rs. 12,000;

(d) in any other case Rs. 15,000."

Section 18 - Amendment Of Section 252

In section 252 of the Income-tax Act, for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) A judicial member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the Central Legal Service and has held a post in Grade I of that Service or any equivalent or higher post for at least three years or who has been an advocate for at least ten years.

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

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

(ii) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or State, requiring special knowledge of law after he became an advocate.

(2A) An accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949), or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant, or who has been a member of the Indian Income-tax Service, Group A and has held the post of Commissioner of Income-tax or any equivalent or higher post for at least three years."

Section 19 - Amendment Of Section 253

In section 253 of the Income-tax Act, in sub-section (6), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 20 - Amendment Of Section 256

In section 256 of the Income-tax Act, in sub-section (1), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 21 - Amendment Of Section 269g

In section 269G of the Income-tax Act, in sub-section (2) for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 22 - Insertion Of New Section 293a

After section 293 of the Income-tax Act, the following section shall be inserted, namely :-

'293A. Power to make exemption, etc., in relation to participation in the business of prospecting for, extraction, etc., of mineral oils. (1) If the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of persons specified in sub-section (2) or in regard to the whole or any part of the

income of such class of persons.

(2) The persons referred to in sub-section (1) are the following, namely :-

(a) persons with whom the Central Government has entered into agreements for the association or participation of that Government or any person authorised by that Government in any business consisting of the prospecting for or extraction or production of mineral oils;

(b) person providing any services or facilities or supplying any ship, aircraft, machinery or plant (whether by way of sale or hire) in connection with any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government or any person specified by that Government in this behalf by notification in the Official Gazette; and

(c) employees of the persons referred to in clause (a) or clause (b).

(3) Every notification issued under this section shall be laid before each House of Parliament.

Explanation : For the purposes of this section, "mineral oil" includes petroleum and natural gas.'

Section 23 - Amendment Of Ninth Schedule

In the Ninth Schedule to the Income-tax Act, after item 32, the following item shall be inserted with effect from the 1st day of April, 1982, namely :-

"33. Electronic components and raw materials, computers and peripherals, communication equipment, process control, instrumentation, industrial and professional grade electronic equipment."

Section 24 - Amendment Of Eleventh Schedule

In the Eleventh Schedule to the Income-tax Act, -

(a) for the brackets, words, figures and letters "[See section 32A and section 80J(4)]", the brackets, words, figures and letters "[See section 32A, section 80CC(3)(a)(i), section 80-I(2) and section 80J(4)]" shall be substituted;

(b) item 8, items 11 to 21 (both inclusive) and items 26 and 29 shall be omitted with effect from the 1st day of April, 1982.

Section 25 - Consequential Amendments

The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely :-

(a) in sub-section (3) of section 80P, for the words, figures and letters "section 80HHA, section 80J", the words, figures and letters "section 80HHA, section 80-I, section 80J" shall be substituted;

(b) in the Explanation below sub-section (2) of section 273, for the word "proviso", at both the places where it occurs, the words "first proviso" shall be substituted.

Section 26 to 31 - Wealth-Tax

Section 26 - Amendment Of Section 21

In section 21 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), -

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

"Explanation : A trust which is not declared by a duly executed instrument in writing (including a valid deed of wakf) shall be deemed, for the purposes of this sub-section, to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the Wealth-tax Officer,

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(i) where the trust has been declared before the 1st day of June, 1981, within a period of three months from that day; and

(ii) in any other case, within three months from the date of declaration of the trust.";

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

(i) for the words "Notwithstanding anything contained in this section", the words "Notwithstanding anything

contained in the foregoing provisions of this section" shall be substituted;

(ii) in Explanation 2, for the words "for the purposes of this sub-section in any case, not being a case referred to in the proviso", the words, brackets, figure and letter "for the purposes of this sub-section (4A) in any case, not being a case referred to in the proviso to this sub-section" shall be substituted;

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

'(4A) Notwithstanding anything contained in this section, where the assets chargeable to tax under this Act are held by a trustee under an oral trust, the wealth-tax shall be levied upon and recovered from such trustee in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India for the purposes of this Act, and -

(a) at the rates specified in Part I of Schedule I or;

(b) at the rate of three per cent.,

whichever course would be more beneficial to the revenue.

Explanation : For the purposes of this sub-section, "oral trust" means a trust which is not declared by a duly executed instrument in writing (including a valid deed of wakf) and which is not deemed under the Explanation to sub-section (1) to be a trust declared by a duly executed instrument in writing.'

Section 27 - Insertion Of New Section 21aa

After section 21A of the Wealth-tax Act, the following section shall be inserted, namely :-

"21AA. Assessment when assets are held by certain associations of persons. (1) Where assets chargeable to tax under this Act are held by an association of persons, other than a company or co-operative society, and the individual shares of the members of the said association in the income or assets or both of the said association on the date of its formation or at any time thereafter are indeterminate or unknown, the wealth-tax shall be levied upon and recovered from such association in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India for the purposes of this Act, and -

(a) at the rates specified in Part I of Schedule I; or

(b) at the rate of three per cent.,

whichever course would be more beneficial to the revenue.

(2) Where any business or profession carried on by an association of persons referred to in sub-section (1) has been discontinued or where such association of persons is dissolved, the Wealth-tax Officer shall make an assessment of the net wealth of the association of persons as if no such discontinuance or dissolution had taken place and all the provisions of this Act, including the provisions relating to the levy of penalty or any other sum chargeable under any provision of this Act, so far as may be, shall apply to such assessment.

(3) Without prejudice to the generality of the provisions of sub-section (2), if the Wealth-tax Officer or the Appellate Assistant Commissioner or the Commissioner (Appeals) in the course of any proceedings under this Act in respect of any such association of persons as is referred to in sub-section (1) is satisfied that the association of persons was guilty of any of the acts specified in section 18 or section 18A, he may impose or direct the imposition of a penalty in accordance with the provisions of the said sections.

(4) Every person who was at the time of such discontinuance or dissolution a member of the association of person, and the legal representative of any such person who is deceased shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment of imposition of penalty or other sum.

(5) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (4) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

Explanation : Notwithstanding anything contained in section 5, in computing the net wealth for the purposes of this section in any case, any assets referred to in clauses (xv), (xvi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), (xxviii) and (xxix) of sub-section (1) of that section shall not be excluded."

Section 28 - Amendment Of Section 24

In section 24 of the Wealth-tax Act, in sub-section (4), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 29 - Amendment Of Section 26

In section 26 of the Wealth-tax Act, in sub-section (2), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 30 - Amendment Of Section 27

In section 27 of the Wealth-tax Act, in sub-section (1), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 31 - Amendment Of Section 41

In section 41 of the Wealth-tax Act, after sub-section (3), the following sub-section shall be inserted, namely :-

"(4) Where an association of persons referred to in section 21AA is dissolved, notices under this Act in respect of any matter relating to the association may be served on any person who was a member of the association immediately before its dissolution."

Section 32 to 34 - Gift-Tax

Section 32 - Amendment Of Section 23

In section 23 of the Gift-tax Act, 1958 (18 of 1958) (hereinafter referred to as the Gift-tax Act), in sub-section (4), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 33 - Amendment Of Section 25

In section 25 of the Gift-tax Act, in sub-section (2), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 34 - Amendment Of Section 26

In section 26 of the Gift-tax Act, in sub-section (1), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 35 to 43 - Surtax

Section 35 - Amendment Of Section 2

In the Companies (Profits) Surtax Act, 1964 (7 of 1964) [hereinafter referred to as the Companies (Profits) Surtax Act], in section 2, -

(a) clause (1) shall be re-numbered as clause (1A) and before the clause as so re-numbered, the following clause shall be inserted, namely :-

'(1) "advance surtax" means the surtax payable under section 7A;'

(b) after clause (7), the following clause shall be inserted, namely :-

'(7A) "regular assessment" means an assessment made under section 6;'

Section 36 - Insertion Of New Section 7a To 7d

In the Companies (Profits) Surtax Act, after section 7, the following section shall be inserted, namely :-

'7A. Advance payment of surtax. (1) In this section, -

(a) "chargeable amount", in relation to any previous year, means so much of the chargeable profits of the previous

year as exceed the statutory deduction;

(b) "current chargeable amount", in relation to the advance surtax payable by a company during any financial year, means the chargeable amount of the company of the period which would be the previous year for the assessment year immediately following that financial year.

(2) Surtax shall be payable, in accordance with the provisions of this section, in advance during the financial year in respect of the chargeable amount of the period which would be the previous year for the immediately following assessment year.

(3) the amount of advance surtax payable by an assessee in the financial year shall be computed as follows :-

(a) the chargeable amount of the latest previous year in respect of which the assessee has been assessed by way of regular assessment shall first be ascertained;

(b) in a case where the chargeable amount of the latest previous year [being a year later than the previous year referred to in clause (a)] on the basis of which a provisional assessment has been made under section 7 exceeds the chargeable amount referred to in clause (a), the chargeable amount referred to in clause (a) shall be substituted by the chargeable amount on the basis of which such provisional assessment has been made;

(c) surtax shall be calculated on the chargeable amount referred to in clause (a) or, as the case may be, in clause (b), at the rates specified in the Third Schedule.

(4) Subject to the provisions of this section, advance surtax shall be payable in three equal instalments on the following dates during the financial year, namely :-

(a) the 15th day of June, the 15th day of September and the 15th day of December, in the case of an assessee whose chargeable amount to the extent of 75 per cent. thereof or more is derived from a source or sources for which the previous year (relevant to the assessment year next following the financial year aforesaid) ends on or before the 31st day of December;

(b) the 15th day of September, the 15th day of December and the 15th day of March, in any other case :

Provided that were, in respect of any class of assessee, the Board has, in exercise of the powers conferred by the proviso to sub-section (1) of section 211 of the Income-tax Act, authorised the payment of the last instalment of advance tax on the 15th day of March during the financial year instead of on the 15th day of December, the last instalment of advance surtax in the case of such assessee shall also be payable on the 15th day of March during the financial year.

(5) Every company shall, in each financial year, on or before the date on which the first instalment, or where it has not previously been assessed by way of regular assessment under this Act, on or before the date on which the last instalment, of advance surtax is due in its case under sub-section (4), if it is likely to have any current chargeable amount, send to the Income-tax Officer, -

(a) where it has been previously assessed by way of regular assessment under this Act, a statement of advance surtax payable by it computed in the manner laid down in sub-section (3), or

(b) where it has not previously been assessed by way of regular assessment under this Act, an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the amount specified in (i) above calculated in the manner laid down in sub-section (3), and shall pay such amount of advance surtax, -

(I) in a case falling under clause (a), as accords with the statement in equal instalments on the dates applicable in its case under sub-section (4); and

(II) in a case falling under clause (b), as accords with the estimate in equal instalments on such of the dates applicable in its case as have not expired, or in one sum if only the last of such dates has not expired.

(6) Where a company which is required to send a statement under clause (a) so sub-section (5) estimates on or before the date on which the first instalment of advance surtax is due in its case under sub-section (4) that, by reason of its current chargeable amount being likely to be less than the chargeable amount on which advance surtax is payable by it under sub-section (5) or for any other reason, the amount of advance surtax computed in the manner laid down in sub-section (3) on the current chargeable amount would be less than the amount of advance surtax payable by it under sub-section (5), it may send to the Income-tax Officer, in lieu of such statement, an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the current chargeable amount calculated in the manner laid down in sub-section (3),

and shall pay such amount of advance surtax as accords with its estimate in equal instalments on the dates applicable in its case under sub-section (4).

(7) Where a company which has sent a statement under clause (a) of sub-section (5) estimates on or before the date on which the last instalment of advance surtax is due in its case that, by reason of its current chargeable amount being likely to be less than the chargeable amount on which advance surtax is payable by it under sub-section (5) or for any other reason, the amount of advance surtax computed in the manner laid down in sub-section (3) on the current chargeable amount would be less than the amount of advance surtax payable by it under sub-section (5), it may, at its option, send to the Income-tax Officer an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the current chargeable amount calculated in the manner laid down in sub-section (3), and shall pay such amount of advance surtax as accords with its estimate in equal instalments on such of the date applicable in its case under sub-section (4) as have not expired, or in one sum if only the last of such dates has not expired.

(8) In the case of any company which is liable to pay advance surtax under sub-section (5) or sub-section (6) or, as the case may be, sub-section (7), if, by reason of the current chargeable amount being likely to be greater than the chargeable amount on which the advance surtax so payable by it has been computed or for any other reason, the amount of advance surtax computed in the manner laid down in sub-section (3) on the current chargeable amount (which shall be estimated by the company) exceeds the amount of advance surtax so payable by it by more than twenty per cent. of the latter amount, it shall, on or before the date on which the last instalment of advance surtax is payable by it, send to the Income-tax Officer an estimate of -

(i) the current chargeable amount, and

(ii) the advance surtax payable by it on the current chargeable amount calculated in the manner laid down in sub-section (3),

and shall pay such amount of advance surtax as accords with its estimate on such of the dates applicable in its case under sub-section (4) as have not expired, by instalments which may be revised according to sub-section (9) :

Provided that where in respect of any company the Commissioner has, in exercise of the powers conferred by the first proviso to sub-section (4) of section 209A, or the first proviso to sub-section (3A) of section 212, of the Income-tax Act, extended the date for furnishing the estimate referred to in the said sub-section (4) or, as the case may be, the said sub-section (3A) and the company has paid the advance surtax which it is liable to pay under sub-section (5) or sub-section (6) or, as the case may be, sub-section (7) on or before the date on which the last instalment of advance surtax is due in its case, the company shall pay, on or before the date as so extended, the amount by which the advance surtax already paid by it falls short of the advance surtax payable in accordance with its estimate.

(9) The company may send a revised estimate of the advance surtax payable by it on or before any one of the dates specified in sub-section (4) and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(10) Every statement or estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

7B. Interest payable by Government.-- The Central Government shall pay simple interest at twelve per cent. per annum on the amount by which the Aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under section 7A exceeds the amount of the tax determined on regular assessment, from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year.

7C. Interest payable by assessee.-- (1) Where, in any financial year, a company has paid advance surtax under section 7A on the basis of its own estimate (including revised estimate), and the advance surtax so paid is less than eighty-three and one-third per cent. of the assessed surtax, simple interest at the rate of twelve per cent. per annum from the 1st day of April next following the said financial year up to the date of the regular assessment shall be payable by the company upon the amount by which the advance surtax so paid falls short of the assessed surtax.

(2) Where, on making the regular assessment, the Income-tax Officer finds -

(a) that any such company as is referred to in clause (a) of sub-section (5) of section 7A has not sent the statement referred to in that clause or the estimate in lieu of such statement referred to in sub-section (6) of that section; or

(b) that any such company as is referred to in clause (b) of sub-section (5) of section 7A has not sent the estimate referred to in that clause,

simple interest at the rate of twelve per cent. per annum from the 1st day of April next following the financial year in which the advance surtax was payable in accordance with the said sub-section (5) or sub-section (6) up to the date of the regular assessment shall be payable by the company upon the amount equal to the assessed surtax.

(3) Where, on making the regular assessment, the Income-tax Officer finds that any company which is required to send an estimate under sub-section (8) of section 7A has not sent the estimate referred to therein, simple interest at the rate of twelve per cent. per annum for the 1st day of April next following the financial year in which the advance surtax was payable in accordance with the said sub-section (8) up to the date of the regular assessment shall be payable by the company upon the amount by which the advance surtax paid by it falls short of the assessed surtax.

(4) Notwithstanding anything contained in the foregoing sub-sections, where provisional assessment is made under section 7 -

(i) interest shall be calculated in accordance with the provisions of sub-section (1) or sub-section (2) or, as the case may be, sub-section (3) up to the date on which the surtax provisionally assessed is paid; and

(ii) thereafter interest shall be calculated at the rate of twelve per cent. per annum on the amount by which the surtax provisionally assessed falls short of the assessed surtax.

(5) In such cases and under such circumstances as may be prescribed, the Income-tax Officer may reduce or waive the interest payable by the company under this section.

(6) Where, as a result of an order under section 11, or section 12, or section 13, or section 17, or section 18 read with section 260 or section 262 of the Income-tax Act, the amount on which interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(7) In this section and section 9A, "assessed surtax" means the surtax determined on the basis of the regular assessment without making any deduction therefrom.

7D. Interest payable by assessee in case of underestimate, etc. Where, on making the regular assessment, the Income-tax Officer finds that any company has under section 7A underestimated the advance surtax payable by it and thereby reduced the amount payable in either of the first two instalments, he may direct that the company shall pay simple interest at twelve per cent. per annum for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance surtax actually paid during the year.

Explanation : For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed to have become due fifteen days after the expiry of the said six months.'

Section 37 - Insertion Of New Section 9a

In the Companies (Profits) Surtax Act, after section 9, the following section shall be inserted, namely :-

"9A. False estimate of, or failure to pay, advance surtax. (1) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee -

(a) has furnished under clause (a) of sub-section (5) of section 7A a statement of advance surtax payable by him which he knew or had reason to believe to be untrue, or

(b) has without reasonable cause failed to furnish a statement of the advance surtax payable by him in accordance with the provisions of clause (a) of sub-section (5) of section 7A,

he may direct that such assessee shall, in addition to the amount of surtax, if any, payable by him, pay by way of penalty a sum -

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the surtax actually paid during the financial year immediately preceding the assessment year under the provisions of section 7A falls short of -

(1) eight-three and one-third per cent. of the assessed surtax, or

(2) the amount which would have been payable by way of advance surtax if the assessee had furnished a correct and complete statement in accordance with the provisions of clause (a) of sub-section (5) of section 7A,

whichever is less;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of eighty-three and one-third per cent. of the assessed surtax.

(2) If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment for any assessment year, is satisfied that any assessee -

(a) has furnished under clause (b) of sub-section (5) or sub-section (6) or sub-section (7) or sub-section (9) of section 7A, an estimate of the advance surtax payable by him which he knew or had reason to believe to be untrue, or

(b) has furnished under sub-section (8) of section 7A, an estimate of the advance surtax payable by him which he knew or had reason to believe to be untrue, or

(c) has without reasonable cause failed to furnish an estimate of the advance surtax payable by him in accordance with the provisions of clause (b) of sub-section (5) of section 7A, or

(d) has without reasonable cause failed to furnish an estimate of advance surtax payable by him in accordance with the provisions of sub-section (8) of section 7A,

he may direct that such assessee shall, in addition to the amount of surtax, if any, payable by him, pay by way of penalty a sum -

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the surtax actually paid during the financial year immediately preceding the assessment year under the provisions of section 7A falls short of -

(1) eighty-three and one-third per cent. of the assessed surtax, or

(2) where a statement under clause (a) of sub-section (5) of section 7A was furnished by the assessee, the amount payable under such statement,

whichever is less;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the surtax actually paid during the financial year immediately preceding the assessment year under the provisions of section 7A falls short of eighty-three and one-third per cent. of the assessed surtax;

(iii) which, in the case referred to in clause (c), shall not be less than ten per cent. but shall not exceed one and a half times of eighty-three and one-third per cent. of the assessed surtax; and

(iv) which, in the case referred to in clause (d), shall not be less than ten per cent. but shall not exceed one and a half times the amount of surtax payable in accordance with a statement under clause (a) or an estimate under clause (b) of sub-section (5) of section 7A or an estimate in lieu of a statement under sub-section (6) of that section falls short of eighty-three and one-third per cent. of the assessed surtax.

Explanation : Where the Commissioner has, in exercise of the powers conferred by the first proviso to sub-section (4) of section 209A, or the first proviso to sub-section (3A) of section 212, of the Income-tax Act, extended the date for furnishing the estimate referred to in the said sub-section (4) or, as the case may be, the said sub-section (3A) and the date so extended falls beyond the financial year immediately preceding the assessment year, then, the amount of surtax paid by the assessee on or before the date so extended shall, for the purposes of clause (ii) of sub-section (2) also be regarded as surtax actually paid during that financial year."

Section 38 - Amendment Of Section 10

In section 10 of the Companies (Profits) Surtax Act, after the words and figure "under section 9", the words, figure and letter "or section 9A" shall be inserted.

Section 39 - Amendment Of Section 11

In section 11 of the Companies (Profits) Surtax Act, in sub-section (1), after the words "fine imposed by the Income-tax Officer,", the words, figure and letter "or objecting to the interest levied by the Income-tax Officer under section 7D," shall be inserted.

Section 40 - Amendment Of Section 12

In section 12 of the Companies (Profits) Surtax Act, in sub-section (6), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 41 - Amendment Of Section 18

In section 18 of the Companies (Profits) Surtax Act, for the figures and word "220 to 229", the figures and word "218 to 229" shall be substituted.

Section 42 - Insertion Of New Section 24aa

In the Companies (Profits) Surtax Act, after section 24A, the following section shall be inserted, namely :-

'24AA. Power to make exemption, etc., in relation to participation in the business of prospecting for, extraction, etc., of mineral oils. (1) If the Central Government is satisfied that it is necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, make an exemption, reduction in rate or other modification in respect of surtax in favour of any class of foreign companies specified in sub-section (2) or in regard to the whole or any part of the chargeable profits of such class of companies.

Explanation : For the purposes of this sub-section, "foreign company" shall have the meaning assigned to it in clause (4) of section 80B of the Income-tax Act.

(2) The foreign companies referred to in sub-section (1) are the following, namely :-

(a) foreign companies with whom the Central Government has entered into agreements for the association or participation of that Government or any person authorised by that Government in any business consisting of the prospecting for or extraction or production of mineral oils; and

(b) foreign companies providing any services of facilities or supplying any ship, aircraft, machinery or plant (whether by way or sale or hire) in connection with any business consisting of the prospecting for or extraction or production of mineral oils carried on by that Government or any person specified by that Government in this behalf by notification in the Official Gazette.

(3) Every notification issued under this section shall be laid before each House of Parliament

Explanation : For the purposes of this section, "mineral oil" includes petroleum and natural gas.'

Section 43 - Amendment Of First Schedule

In the First Schedule to the Companies (Profits) Surtax Act, in rule 1, the following Explanation shall be added at the end, namely :-

"Explanation : Notwithstanding anything contained in any clause of this rule, the amount of any income or profits and gains which is required to be excluded from the total income under that clause shall be only the amount of such income or profits and gains as computed in accordance with the provisions of the Income-tax Act, (except Chapter VIA thereof), and in a case where any deduction is required to be allowed in respect of any such income or profits and gains under the said Chapter VIA, the amount of such income or profits and gains computed as aforesaid as reduced by the amount of such deduction."

Section 44 - Amendment Of Act 45 Of 1974

Interest-Tax

In section 16 of the Interest-tax Act, 1974, in sub-section (6), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.

Section 45 - Amendment Of Act 54 Of 1980

Hotel-Receipts Tax

In section 19 of the Hotel-Receipts Tax Act, 1980, in sub-section (6), for the words "one hundred and twenty-five rupees", the words "two hundred rupees" shall be substituted with effect from the 1st day of June, 1981.
