Finance Act, 1993

Chapter III - Direct Tax

In section 10 of the Income-tax Act, -

(a) after clause (5A), the following clause shall be inserted with effect from the 1st day of April, 1994, namely :-

'(5B) in the case of an individual who renders services as a technician in the employment (commencing from a date after the 31st day of March, 1993) of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this clause or sub-clause (viia) of clause (6) by the prescribed authority or in any business carried on in India and 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 and the tax on his income for such services chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding forty-eight month commencing from the date of his arrival in India :

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition relating to non-residence in India as specified in this clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

Explanation : For the purposes of this clause, "technician" means a person having specialised knowledge and experience in -

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

(iii) such other field as the Central Government may, having regard to availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised;';

(b) in clause (6), -

(i) sub-clause (vii) shall be omitted;

(ii) in sub-clause (viia), in item (ii), after the figures, letters and words "31st day of March, 1988", the words, figures and letters "but before the 1st day of April, 1993", shall be inserted;

(c) for clause (10C) [as substituted by section 4 of the Finance Act, 1992 (18 of 1992)], the following clause shall be substituted, namely :-

"(10C) any amount received by an employee of -

(i) a public sector company; or

(ii) any other company; or

(iii) an authority established under a Central, State or Provincial Act; or

(iv) a local authority,

at the time of his voluntary retirement in accordance with any scheme or schemes of voluntary retirement, to the extent such amount does not exceed five lakh rupees :

Provided that the schemes of the said companies or authorities, as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including inter alia criteria of economic viability) as may be prescribed and such schemes in relation to companies referred to in sub-clause (ii) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf :

Provided further that where exemption has been allowed to an employee under this clause for any assessment year, no exemption thereunder shall be allowed to him in relation to any other assessment year;";

(d) in clause (15), -

(i) in sub-clause (iv), in item (fa), after the words "a scheduled bank", the words, brackets and figures "to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (6) of section 6" shall be inserted;

(ii) in sub-clause (v), for the words "Registrar, Supreme Court", the words "Welfare Commissioner, Bhopal Gas Victims, Bhopal" shall be substituted and shall be deemed to have been substituted with effect from the 2nd day of November, 1992;

(e) after clause (23BBA), the following clause shall be inserted with effect from the 1st day of April, 1994, namely :-

'(23BBB) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation : For the purposes of this clause, "European Economic Community" means the European Economic Community established by the Treaty of Rome of 25th March, 1957;';

(f) in clause (23C), after sub-clause (iii), the following sub-clause shall be inserted, namely :-

"(iiia) the National Foundation for Communal Harmony; or".

Section 4 - Amendment Of Section 10A

In section 10A of the Income-tax Act, -

(a) in sub-section (2), for clause (i), the following clause shall be substituted with effect from the 1st day of April, 1994, namely :-

"(i) it has begun or begins to manufacture or produce articles or things during the previous year relevant to the assessment year -

(a) commencing on or after the 1st day of April, 1981, in any free trade zone; or

(b) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park or, as the case may be, software technology park;";

(b) in sub-section (4), in clause (iii), after the word, figures and letter "section 80-I", the words, figures and letters "or section 80-IA" shall be inserted and shall be deemed to have inserted with effect from the 1st day of April, 1991;

(c) in the Explanation occurring at the end, after clause (iii), the following clauses shall be inserted with effect from the 1st day of April, 1994, namely :-

'(iv) "electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce;

(v) "software technology park" means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce;

(vi) "produce", in relation to articles or things referred to in clause (i) of sub-section (2), includes production of computer programmes;'.

Section 5 - Amendment Of Section 10B

In section 10B of the Income-tax Act, in sub-section (4), in clause (iii), after the word, figures and letter "section 80-I", the words, figures and letters "or section 80-IA" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991.

Section 6 - Amendment Of Section 11

In section 11 of the Income-tax Act, in sub-section (2), the following proviso shall be inserted at the end and shall be deemed always to have been inserted, namely :-

"Provided that in computing the period of ten years referred to in clause (a), the period during which the income could not applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded."

Section 7 - Amendment Of Section 16

In section 16 of the Income-tax Act, in clause (i), with effect from the 1st day of April, 1994, -

(a) in the opening portion, for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted;

(b) in the proviso, for the words "twelve thousand rupees" and "fifteen thousand rupees", the words "fifteen thousand rupees" and "eighteen thousand rupees" shall respectively be substituted.

Section 8 - Amendment Of Section 17

In section 17 of the Income-tax Act, in clause (2), in the proviso, in clause (vi), -

(a) in sub-clause (2), for the words "travel or stay", the words "travel and stay" shall be substituted;

(b) for the portion beginning with the words "subject to the condition", and ending with the words "Reserve Bank of India in this behalf, prescribe", the following shall be substituted, namely :-

"subject to the condition that -

(A) the expenditure on medical treatment and stay abroad shall be excluded from perquisite only to the extent permitted by the Reserve Bank of India; and

(B) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees".

Section 9 - Amendment Of Section 35

In section 35 of the Income-tax Act, after sub-section (2A), the following sub-section shall be inserted with effect from the 1st day of April, 1994, namely :-

'(2AA) Where the assessee pays any sum to a National Laboratory with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority, then -

(a) there shall be allowed a deduction of a sum equal to one and one-fourth times the sum so paid; and

(b) no deduction in respect of such sum shall be allowed under any other provision of the Income-tax Act :

Provided that every National Laboratory desirous of obtaining approval under this sub-section shall make an application in the prescribed form and manner to the prescribed authority :

Provided further that the prescribed authority may, before granting approval, call for such documents or information from the National Laboratory as it thinks necessary in order to satisfy itself about the genuineness of the activities relating to scientific research of such Laboratory.

Explanation : For the purposes of this sub-section, "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research or the Council of Scientific and Industrial Research and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed.'.

Section 10 - Amendment Of Section 36

In section 36 of the Income-tax Act, in sub-section (1), in clause (viia), in sub-clause (a), for the words "two per cent.", the words "four per cent." shall be substituted with effect from the 1st day of April, 1994.

Section 11 - Amendment Of Section 44C

In section 44C of the Income-tax Act, -

(a) clause (b) shall be omitted;

(b) in the Explanation, clause (iii) shall be omitted.

Section 12 - Amendment Of Section 80DD

In section 80DD of the Income-tax Act, in sub-section (1), for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1994.

Section 13 - Amendment Of Section 80G

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

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

(a) after the words, brackets, figures and letters "or in sub-clause (iiiab)", the words, brackets, figures and letter "or in sub-clause (iiie)" shall be inserted;

(b) after the words, brackets, figures and letter "or in sub-clause (iiie)" [as inserted by sub-clause (a) of this clause], the words, brackets, figures and letter "or in sub-clause (iiif)" shall be inserted with effect from the 1st day of April, 1994;

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

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

"(iiie) the National Foundation for Communal Harmony; or";

(b) after sub-clause (iiie) [as inserted by sub-clause (a) of this clause], the following sub-clause shall be inserted with effect from the 1st day of April, 1994, namely :-

"(iiif) a University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf; or";

(3) in sub-section (5), in clause (vi), in the proviso, for the words "three assessment years", the words "five assessment years" shall be substituted.

Section 14 - Amendment Of Section 80HHE

In section 80HHE of the Income-tax Act, in sub-section (1), in the proviso, for the figures "1994", the figures "1995" shall be substituted.

Section 15 - Amendment Of Section 80-IA

In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 1994, -

(1) in sub-section (2), for clause (iv), the following clause shall be substituted, namely :-

"(iv)(a) in the case of an industrial undertaking not specified in sub-clause (b), it begins to manufacture or produce articles or things or to operate such plant or plants, at any time during the period beginning on the 1st day of April, 1991, and ending on the 31st day of March, 1995, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(b) in the case of an industrial undertaking located in an industrially backward State specified in the Eight Schedule or set up in any part of India for the generation, or generation and distribution, of power, it begins to manufacture or produce articles or things or to operate its cold storage plant or plants or to generate power at any time during the period beginning on the 1st day of April, 1993, and ending on the 31st day of March, 1998;";

(2) in sub-section (5), for clause (i), the following clause shall be substituted, namely :-

'(i)(a) in the case of an industrial undertaking referred to in sub-clause (a) of clause (iv) of sub-section (2), twenty-five per cent. of the profits and gains derived from such industrial undertaking;

(b) in the case of an industrial undertaking referred to in sub-clause (b) of clause (iv) of sub-section (2), hundred per cent. of the profits and gains derived from such industrial undertaking for the initial five assessment years and thereafter twenty-five per cent. of the profits and gains derived from such industrial undertaking :

Provided that where the assessee is a company, the provisions of this clause shall have effect as if for the words "twenty-five per cent.", the words "thirty per cent." had been substituted.'.

Section 16 - Amendment Of Section 80L

In section 80L of the Income-tax Act, in sub-section (1), in clauses (1) and (2), for the words "seven thousand", the words "ten thousand" shall be substituted with effect from the 1st day of April, 1994.

Section 17 - Amendment Of Section 80M

In section 80M of the Income-tax Act, in sub-section (1), the following proviso shall be inserted at the end, with effect from the 1st day April, 1994, namely :-

"Provided that where any domestic company receives any income by way of dividend from the units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), such domestic company shall, subject to the aforesaid provisions, be eligible for deduction to the extent of -

(a) four-fifth of such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1994;

(b) two-fifth of such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1995,

and no deduction shall be allowed on such income in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1996, and any subsequent previous year.".

Section 18 - Amendment Of Section 80P

In section 80P of the Income-tax Act, in sub-section (3), -

(a) after the words, figures and letter "or section 80-I", the words, figures and letters "or section 80-IA" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of

April, 1991;

(b) after the word, figures and letter "section 80-I,", the word, figures and letters "section 80-IA," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991.

Section 19 - Insertion Of New Section 80V

After section 80U of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1994, namely :-

"80V. Deduction from gross total income of the parent in certain cases. - Where a minor child, whose income is included in the total income one of his parents under sub-section (1A) of section 64, is suffering from any disability of the nature specified in section 80U, then, in computing the total income of such parent, there shall be allowed from the gross total income of such parent a deduction of a sum to which such minor child would have been entitled under section 80U had the total income of such minor child been computed separately."

Section 20 - Amendment Of New Section 88B

In section 88B of the Income-tax Act, with effect from the 1st day of April, 1994, -

(a) for the words "fifty thousand rupees", the words "seventy-five thousand rupees" shall be substituted;

(b) for the words "ten per cent.", the words "twenty per cent." shall be substituted.

Section 21 - Insertion Of New Section 115AD

After section 115AC of the Income-tax Act, the following section shall be inserted, namely :-

'115AD. Tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer. - (1) Where the total income of a Foreign Institutional Investor includes -

(a) income received in respect of securities (other than units referred to in section 115AB) listed in a recognised stock exchange in India in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder; or

(b) income by way of short-term or long-term capital gains arising from the transfer of such securities,

the income-tax payable shall be the aggregate of -

(i) the amount of income-tax calculated on the income in respect of securities referred to in clause (a), if any, included in the total income, at the rate of twenty per cent.;

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

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

(iv) the amount of income-tax with which the Foreign Institutional Investor would have been chargeable had its 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 Foreign Institutional Investor -

(a) consists only of income in respect of securities referred to in clause (a) of sub-section (1), no deduction shall be allowed to it 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 Foreign Institutional Investor.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of capital gains arising out of the transfer of securities referred to in clause (b) of sub-section (1).

Explanation : For the purposes of this section, -

(a) the expression "Foreign Institutional Investor" means such investor as the Central Government may, by notification in the Official Gazette, specify in this behalf;

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

Section 22 - Amendment Of Section 115K

In section 115K of the Income-tax Act, -

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

(i) in clause (a), for the words, brackets and figure "equal to seven per cent. of the amount specified in sub-section (5)", the words "of thirty-seven thousand rupees" shall be substituted with effect from the 1st day of April, 1994;

(ii) in clause (b), -

(A) after the words "eating place", the words "or of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inserted;

(B) for the words "thirty-five", the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994;

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

(i) in clause (b), -

(A) in sub-clause (i), for the words "thirty-five", the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994;

(B) in sub-clause (ii), -

(1) after the words "eating place", the words" or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inseted;

(2) for the words "thirty-five", the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994;

(ii) in clause (c), after the words "eating place", the words "or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inserted;

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

(i) in clause (a), -

(A) for the words "thirty-five", at both the places where they occur, the words "thirty-seven" shall be substituted with effect from the 1st day of April, 1994;

(B) after the words "eating place", the words "or of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle" shall be inserted;

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

"Provided that where such person is carrying on the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle, the statement in relation to the previous year relevant to the assessment year commencing on the 1st day of April, 1993, shall be submitted by him on or before the 30th day of June, 1993.";

(d) sub-section (5) shall be omitted with effect from the 1st day of April, 1994;

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

'Explanation : For the purposes of this section, -

(a) the expressions "goods carriage", "motor cab", "maxicab" and "motor vehicle" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(b) "vocation" includes tailoring, hair-cutting, clothes' washing, typing, photo-copying, repair work of any kind and other services of a similar nature.'.

Section 23 - Amendment Of Section 115N

In section 115N of the Income-tax Act, for the words "retail trade or eating place or vocation", the words "the business of retail trade or from the business of running an eating place or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle or from any vocation" shall be substituted. .

Section 24 - Amendment Of Section 143

In section 143 of the Income-tax Act, in sub-section (1A), -

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

"(a) Where as a result of the adjustments made under the first proviso to clause (a) of sub-section (1), -

(i) the income declared by any person in the return is increased; or

(ii) the loss declared by such person in the return is reduced or is converted into income, the Assessing Officer shall, -

(A) in a case where the increase in income under sub-clause (i) of this clause has increased the total income of such person, further increase the amount of tax payable under sub-section (1) by an additional income-tax calculated at the rate of twenty per cent. on the difference between the tax on the total income so increased and the tax that would have been chargeable had such total income been reduced by the amount of adjustments and specify the additional income-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(B) in a case where the loss so declared is reduced under sub-clause (ii) of this clause or the aforesaid adjustments have the effect of converting that loss into income, calculate a sum (hereinafter referred to as additional income-tax equal to twenty per cent. of the tax that would have been chargeable on the amount of the adjustments as if it had been the total income of such person and specify the additional income-tax so calculated in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(C) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional income-tax calculated under sub-clause (A) or sub-clause (B), as the case may be.";

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

Section 25 - Amendment Of Section 194

In section 194 of the Income-tax Act, the second proviso shall be omitted with effect from the 1st day of June, 1993.

Section 26 - Amendment Of Section 196B

In section 196B of the Income-tax Act, in the opening portion, for the words, figures and letters "where any income is payable in respect of units referred to in section 115AB to an Offshore Fund", the following shall be substituted with effect from the 1st day of June, 1993, namely :-

"Where any income in respect of units referred to in section 115AB or by way of long-term capital gains arising from the transfer of such units is payable to an Offshore Fund."

Section 27 - Amendment Of Section 196C

In section 196C of the Income-tax Act, in the opening portion, for the words, figures and letters "Where any income by way of interest or dividends is payable in respect of bonds or shares referred to in section 115AC to a non-resident", the following shall be substituted with effect from the 1st day of June, 1993, namely :-

"Where any income by way of interest or dividends in respect of bonds or shares referred to in section 115AC or by way of long-term capital gains arising from the transfer of such bonds or shares is payable to a non-resident."

Section 28 - Insertion Of New Section 196D

After section 196D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 1993, namely :-

"196D. Income of Foreign Institutional Investors from securities. - (1) Where any income in respect of securities referred to in clause (a) of sub-section (1) of section 115AD is payable to a Foreign Institutional Investor, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent.

(2) No deduction of tax shall be made from any income, by way of capital gains arising from the transfer of securities referred to in section 115AD, payable to a Foreign Institutional Investor."

Section 29 - Amendment Of Section 197

In section 197 of the Income-tax Act, in sub-section (1), after the figures "193,", the figures "194," shall be inserted with effect from the 1st day of June, 1993.

Section 30 - Amendment Of Sections 198 To 200, 202 To 203A And 205

In sections 198, 199, 200, 202, 203, 203A and 205 of the Income-tax Act, for the words, figures and letter "and section 196C", the words, figures and letters ", section 196C and section 196D" shall be substituted with effect from the 1st day of June, 1993.

Section 31 - Insertion Of New Chapter XIX-B

After Chapter XIX-A of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June, 1993, namely: -

CHAPTER XIX-B

Advance Rulings

245N. Definitions. - In this Chapter, unless the context otherwise requires, -

(a) "advance ruling" means the determination, by the Authority, of a question of law or fact specified in the application in relation to a transaction which has been undertaken, or is proposed to be undertaken, by the applicant;

(b) "applicant" means a non-resident making an application;

(c) "application" means an application made to the Authority under sub-section (1) of section 245Q;

(d) "Authority" means the Authority for Advance Rulings constituted under section 245-O;

(e) "Chairman" means the Chairman of the Authority;

(f) "Member" means a Member of the Authority and includes the Chairman.

245-O. Authority for Advance Rulings. -(1) The Central Government shall constitute an Authority for giving advance rulings, to be known as "Authority for Advance Rulings".

(2) The Authority shall consist of the following Members appointed by the Central Government, namely :-

(a) a Chairman, who is a retired Judge of the Supreme Court;

(b) an officer of the Indian Revenue Service who is qualified to be a member of the Central Board of Direct Taxes;

(c) an officer of the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India.

(3) The salaries and allowances payable to, and the terms and conditions of service of, the Members shall be such as may be prescribed.

(4) The Central Government shall provide the Authority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this Act.

(5) The office of the Authority shall be located in Delhi.

245P. Vacancies, etc., not to invalidate proceedings. - No proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

245Q. Application for advance ruling. - (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The application shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

(3) An applicant may withdraw an application within thirty days from the date of the application.

245R. Procedure on receipt of application. - (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner and, if necessary, call upon him to furnish the relevant records :

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application :

Provided that the Authority shall not allow the application where the question raised in the application, -

(a) is already pending in the applicants's case before any income-tax authority, the Appellate Tribunal or any court;

(b) involves determination of fair market value of any property;

(c) relates to a transaction which is designed prima facie for the avoidance of income-tax :

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard :

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Commissioner.

(4) Where an application is allowed under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(5) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation : For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in sub-section (2) of section 288, as if the applicant were an assessee.

(6) The Authority shall pronounce its advance ruling in writing within six months of the receipt of application.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner, as soon as may be, after such pronouncement.

245S. Applicability of advance ruling. - (1) The advance ruling pronounced by the Authority under section 245R shall be binding only -

(a) on the applicant who had sought it;

(b) in respect of the transaction in relation to which the ruling had been sought; and

(c) on the Commissioner, and the income-tax authorities subordinate to him, in respect of the applicant and the said transaction.

(2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

245T. Advance ruling to be void in certain circumstances. - (1) Where the Authority finds, on a representation made to it by the Commissioner or otherwise, that an advance ruling pronounced by it under sub-section (6) of section 245R has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Commissioner.

245U. Powers of the Authority. - (1) The Authority shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908), as are referred to in section 131 of this Act.

(2) The Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI, of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

245V. Procedure of Authority. - The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.'

Section 32 - Amendment Of Section 253

In section 253 of the Income-tax Act, for sub-section (6), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1992, namely :-

"(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made on or after the 1st day of June, 1992, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of, -

(a) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one lakh rupees or less, two hundred and fifty rupees;

(b) where the total income of the assessee computed as aforesaid in the case to which the appeal relates is more than one lakh rupees, one thousand and five hundred rupees :

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4)."

Section 33 - Amendment Of Section 269UC

In section 269UC of the Income-tax Act, in sub-section (1), for the words "three months", the words "four months" shall be substituted with effect from the 1st day of June, 1993.

Section 34 - Amendment Of Section 269UD

In section 269UD of the Income-tax Act, -

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

(a) in the opening portion, for the words "The appropriate authority", the words, brackets, figures and letters "Subject to the provisions of sub-sections (1A) and (1B), the appropriate authority" shall be substituted and shall be deemed to have been substituted with effect from the 17th day of November, 1992;

(b) the words "and for reasons to be recorded in writing," shall be omitted and shall be deemed to have been omitted with effect from the 17th day of November, 1992;

(c) after the first proviso, the following proviso shall be inserted with effect from the 1st day of June, 1993, namely :-

'Provided further that where the statement referred to in section 269UC in respect of any immovable property is received by the appropriate authority on or after the 1st day of June, 1993, the provisions of the first proviso shall have effect as if for the words "two months", the words "three months" had been substituted :';

(d) in the existing second proviso, -

(i) for the words "Provided further", the words "Provided also" shall be substituted with effect from the 1st day of June, 1993;

(ii) for the words "preceding proviso", the words "the first and second provisos" shall be substituted with effect from the 1st day of June, 1993;

(e) the following proviso shall be inserted at the end with effect from the 1st day of June, 1993, namely :-

"Provided also that the period of limitation referred to in the second proviso shall be reckoned, where any stay has been granted by any court against the passing of an order for the purchase of the immovable property under this Chapter, with reference to the date of vacation of the said stay.";

(2) after sub-section (1), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 17th day of November, 1992, namely :-

"(1A) Before making an order under sub-section (1), the appropriate authority shall give a reasonable opportunity of being heard to the transferor or, the person in occupation of the immovable property if the transferor is not in occupation of the property, the transferee and to every other person whom the appropriate authority knows to be interested in the property.

(1B) Every order made by the appropriate authority under sub-section (1) shall specify grounds on which it is made."

Section 35 - Amendment Of Section 269UE

In section 269UE of the Income-tax Act, -

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

(i) for the words "free from all encumbrances", the words, brackets, figures and letters "in terms of the agreement for transfer referred to in sub-section (1) of section 269UC" shall be substituted and shall be deemed to have been substituted with effect from the 17th day of November, 1992;

(ii) the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 17th day of November, 1992, namely :-

"Provided that where the appropriate authority, after giving an opportunity of being heard to the transferor, the transferee or other persons interested in the said property, under sub-section (1A) of section 269UD, is of the opinion that any encumbrance on the property or leasehold interest specified in the aforesaid agreement for transfer is so specified with a view to defeat the provisions of this Chapter, it may, by order, declare such encumbrance or leasehold interest to be void and thereupon the aforesaid property shall vest in the Central Government free from such encumbrance or leasehold interest.";

(b) in sub-section (2), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 17th day of November, 1992, namely :-

"Provided that the provisions of this sub-section and sub-sections (3) and (4) shall not apply where the person in possession of the immovable property, in respect of which an order under sub-section (1) of section 269UD is made, is a bona fide holder of any encumbrance on such property or a bona fide lessee of such property, if the said encumbrance or lease has not been declared void under the proviso to sub-section (1) and such person is eligible to continue in possession of such property even after the transfer in terms of the aforesaid agreement for transfer.".

Section 36 - Amendment Of Section 273A

In section 273A of the Income-tax Act, with effect from the 1st day of June, 1993, -

(a) in sub-section (1), the words "Chief Commissioner or" shall be omitted;

(b) in sub-section (2), for the words "Chief Commissioner or Commissioner except with the previous approval of the Board", the words "the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be" shall be substituted;

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

(i) the words "Chief Commissioner or" shall be omitted;

(ii) in the proviso, for the words "the Chief Commissioner or Commissioner except with the previous approval of the Board", the words "the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be" shall be substituted.

Section 37 - Insertion Of The Eighth Schedule

After the Seventh Schedule to the Income-tax Act, the following Schedule shall be inserted with effect from the 1st day of April, 1994, namely :-

The Eighth Schedule

[See section 80-IA(2)(iv)(b)]

LIST OF INDUSTRIALLY BACKWARD STATES AND UNION TERRITORIES

(1) Arunachal Pradesh

(2) Assam

(3) Goa

(4) Himachal Pradesh

(5) Jammu and Kashmir

(6) Manipur

(7) Meghalaya

(8) Mizoram

(9) Nagaland

(10) Sikkim

(11) Tripura

(12) Andaman and Nicobar Islands

(13) Dadra and Nagar Haveli

(14) Daman and Diu

(15) Lakshadweep

(16) Pondicherry."

Section 38 - Amendment Of Section 2

In section 2 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), in clause (ea), in the Explanation, in clause (b), the words "or any land held by the assessee as stock-in-trade for a period of three years from the date of its acquisition by him" shall be inserted at the end with effect from the 1st day of April, 1994.

Section 39 - Amendment Of Section 5

In section 5 of the Wealth-tax Act, in sub-section (1), after clause (v), the following clause shall be inserted with effect from the 1st day of April, 1994, namely :-

"(vi) one house or part of a house belonging to an individual or a Hindu undivided family;".

Section 40 - Amendment Of Section 18B

In section 18B of the Wealth-tax Act, with effect from the 1st day of June, 1993, -

(a) in sub-section (1), the words "Chief Commissioner or" shall be omitted;

(b) in sub-section (2), for the words "the Chief Commissioner or Commissioner, except with the previous approval of the Board", the words "the Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be" shall be substituted;

(c) in sub-section (4), the words "Chief Commissioner or" shall be omitted.

Section 41 - Amendment Of Section 5

In section 5 of the Gift-tax Act, 1958 (18 of 1958) (hereinafter referred to as the Gift-tax Act), -

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

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

'(iie) being an individual who is a non-resident Indian, once out of the moneys standing to his credit in an account opened and operated in accordance with the Non-resident (Non-repatriable) Rupee Deposit Scheme, 1992.

Explanation : For the purposes of this clause, "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C of the Income-tax Act;';

(ii) in clause (vii), for the words "ten thousand", the words "thirty thousand" shall be substituted with effect from the 1st day of April, 1994;

(b) in sub-section (2), for the words "twenty thousand", the words "thirty thousand" shall be substituted with effect from the 1st day of April, 1994.

Section 42 - Amendment Of Schedule II

In Schedule II to the Gift-tax Act, -

(a) in the opening portion, occurring after the heading "RULES FOR DETERMINING THE VALUE OF PROPERTY GIFTED", -

(i) for the words "the value of any property", the figures and words "1. Subject to the provisions of rules 2 to 7, the value of any property" shall be substituted;

(ii) for the words "the Wealth-tax Act", the words, figures and brackets "the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act)" shall be substituted;

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

2. Quoted shares and debentures of companies. - The value of an equity share or a preference share in any company or a debenture of any company which is a quoted share or a quoted debenture shall be taken as the value quoted in respect of such share or debenture on the date on which the gift was made or where there is no such quotation on such date, the quotation on the date closest to such date and immediately preceding such date.

Explanation : The words and expressions used in this rule and rules 3 to 7 but not defined and defined in rule 2 of Schedule III to the Wealth-tax Act shall have the meanings respectively assigned to them in rule 2 of that Schedule.

3. Special provision for quoted shares of companies. - Notwithstanding anything in rule 2, the value of an equity share in any company which is a quoted share may, at the option of the assessee or a company, be taken on the basis of the average of the value quoted on the 31st day of March immediately preceding the assessment year and the values quoted in respect of such share on the said dates in relation to each of the immediately preceding nine assessment years, or where there is no such quotation on any of the aforesaid dates, the quotation on the date closest to the said date and immediately preceding such date :

Provided that where for any reason the value of such share is quoted in relation to lesser number of assessment years than the said nine assessment years, then the value or values so quoted shall be taken into account for the purposes of the aforesaid average :

Provided further that where the assessee opts for the average of the values so quoted, he shall get such values certified by an accountant and attach the certificate to the return of gifts in respect of the relevant assessment year.

Explanation : For the purposes of this rule, "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288 of the Income-tax Act.

4. Unquoted preference shares. - (1) Subject to the provisions of sub-rule (2), the value of an unquoted preference share in any company shall, -

(a) where the preference share is issued before the date on which the gift was made at a rate of dividend of not less than eight per cent., be the paid-up value of such share; and

(b) where the preference share is issued before the said date at a rate of dividend of less than eight per cent., be the adjusted paid-up value of such share.

(2) Where no dividend has been paid in respect of an unquoted preference share by any company continuously for not less than three accounting years ending on the date on which the gift was made or, in a case where the accounting year of the company does not end on that date, for not less than three continuous accounting years ending on a date immediately before the date on which the gift was made, the paid-up value or, as the case may be, the adjusted paid-up value shall be reduced -

(a) in the case of a non-cumulative preference share, as indicated in the Table below :-

TABLE

Number of accounting years ending on	
the date on which the gift was made or,	

in a case where the accounting year	
does not end on that date, the number	
of accounting years ending on a	Rate of reduction
date immediately preceding the date	
on which the gift was made, for which	
no dividend has been paid	

(1)	(2)		
Three years	10%	}	
Four years	20%	}	of the paid-up value or
Five years	30%	}	the adjusted paid-up
Six years and above	40%	}	value, as the case may be;

(b) in the case of a cumulative preference share, by one-half of the rates specified in the aforesaid Table.

Explanation : For the purposes of this rule, "adjusted paid-up value", in relation to a preference share, means an amount which bears to the paid-up value of the preference share the same proportion as the stipulated rate of dividend [being the rate of dividend on the preference share specified in the terms of issue of such share, and in a case where such dividend is required to be increased under the provisions of section 3 of the Preference Shares (Regulation of Dividends) Act, 1960 (63 of 1960), the rate of dividend as so increased] on such share bears to the rate of eight per cent.

5. Unquoted equity shares in companies other than investment companies. - (1) The value of an unquoted equity share in any company, other than an investment company, shall be determined in the manner set out in sub-rule (2).

(2) The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet; the net amount so arrived at shall be divided by the total amount of its paid-up equity share capital as shown in the balance-sheet; the result multiplied by the paid-up value of each equity share shall be the break-up value of each unquoted equity share, and an amount equal to eighty per cent. of the break-up value so determined shall be the value of the unquoted equity share for the purposes of this Act.

(3) For the purposes of sub-rule (2), -

(a) the following amounts shown as assets in the balance-sheet shall not be treated as assets, namely :-

(i) any amount paid as advance tax under the Income-tax Act;

(ii) any amount shown in the balance-sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset;

(b) the following amounts shown as liabilities in the balance-sheet shall not be treated as liabilities, namely :-

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date on which the gift was made at a general body meeting of the company;

(iii) reserves, by whatever name called, other than those set apart towards depreciation;

(iv) credit balance of the profit and loss account;

(v) any amount representing provision for taxation, other than the amount referred to in sub-clause (i) of clause (a), to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

Explanation : For the purposes of this rule, "balance-sheet", in relation to any company, means the balance-sheet of such company (including the Notes annexed thereto and forming part of the accounts) as drawn up on the date on which the gift was made and, where there is no such balance-sheet, the balance-sheet drawn up on a date immediately preceding that date, and, in the absence of both, the balance-sheet drawn up on a date immediately after the date on which the gift was made.

6. Unquoted equity shares in investment companies. - (1) Subject to rule 7, the value of an unquoted equity share in an investment company shall be determined in the manner specified in sub-rule (2).

(2) The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet; the net amount so arrived at shall be divided by the total paid-up equity share capital of the company as shown in the balance-sheet, and the result multiplied by the paid-up value of each equity share shall be the value of the unquoted equity share in that investment company for the purposes of this Act.

(3) For the purposes of sub-rule (2), the value of an asset disclosed in the balance-sheet of the company shall be taken to be its value determined in accordance with the rules as applicable to that particular asset and, in the absence of any such rule, the value of such asset shall be its value as determined under rule 20 of Schedule III to the Wealth-tax Act.

(4) For the purposes of this rule, -

(a) "balance-sheet" has the same meaning as in rule 5;

(b) the amounts referred to in sub-rule (3) of rule 5 shall not be treated as assets or liabilities.

(5) For the purpose of facilitating the valuation of unquoted equity shares under this rule and rule 7, the company concerned shall have such valuation made by its auditors

appointed under section 224 of the Companies Act, 1956 (1 of 1956), and a certificate of the auditors relating to such valuation in the prescribed form shall be furnished to the Assessing Officer and the shareholders of the company; and the valuation made by the auditors shall be taken into account in the assessment of the shareholders of the company.

7. Unquoted equity shares in interlocked companies. - (1) The value of an unquoted equity share in one of the two interlocked companies held by the other interlocked company for the purposes of rule 6 shall be equal to the paid-up value of such share or the value determined under sub-rule (2), whichever is higher.

(2) For the purpose of sub-rule (1), the aggregate value of all the equity shares in an interlocked company shall be arrived at by multiplying the maintainable profits of such company by -

(a) the fraction 100/8.5, in a case where the gross total income of the company consists, to the extent of not less than 51 per cent. of income chargeable under the head "Income from house property" under the Income-tax Act; or

(b) the fraction 100/10, in the case of any other interlocked company,

and the resultant amount divided by the number of such equity shares shall be the value of such of an equity share in such company.

(3) The maintainable profits of the company, for the purpose of sub-rule (2), shall be computed in the following manner, namely :-

(a) the book profits of the company for the five accounting years of the company immediately preceding the date on which the gift was made shall first be ascertained;

(b) adjustments shall be made to the book profits for each of the said five years for all non-recurring and extraordinary items of income and expenditure and losses;

(c) adjustments shall be made to the book profits for expenditure which is not of a revenue nature but is debited in the accounts and for receipts which are in the nature of revenue receipts but are not accounted for in the profit and loss account;

(d) any development rebate or investment allowance debited in the books of account shall be added back to the book profits;

(e) the tax liability of the company on the book profits, arrived at after the adjustments at items (a), (b), (c) and (d), shall be deducted from such book profits;

(f) amounts required for paying dividends on preference share or shares with prior rights shall be deducted from such book profits;

(g) the aggregate of the book profits for the five accounting years so arrived at, divided by 5, shall be the maintainable profits of the company.

Explanation : For the purposes of this rule, "interlocked companies" means any two investment companies each of which holds shares in the other company.