Finance Act 1997

Section 115P - Interest Payable For Non-Payment Of Tax By Domestic Companies - Where the principal officer of a domestic company and

1998.

Section 21 - Omission Of Section 80AA

Section 80AA of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Section 22 - Amendment Of Section 80AB

In section 80AB of the Income-tax Act, the brackets, words, figures and letter "(except section 80M)" shall be omitted with effect from the 1st day of April, 1998.

Section 23 - Amendment Of Section 80G

In section 80G of the Income-tax Act with effect from the 1st day of April, 1998, -

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iiihe)", the words, brackets, figures and letters "or sub-clause (iiihf)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiihe), the following sub-clause shall be inserted, namely :-

"(iiihf) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory, as the case may be :

Provided that such Fund is -

(a) the only Fund of its kind established in the State or the Union territory, as the case may be;

(b) under the overall control of the Chief Secretary or the Department of Finance of the State or the Union territory, as the case may be;

(c) administered in such manner as may be specified by the State Government or the Lieutenant Governor, as the case may be; or".

Section 24 - Omission Of Section 80GG

Section 80GG of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Section 25 - Amendment Of Section 80-IA

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

(a) in sub-section (1), after the words "scientific and industrial research and development", -

(i) the words "or providing telecommunication services whether basic or cellular" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996;

(ii) after the words "or providing telecommunication services whether basic or cellular" as so inserted, the words "or operating an industrial park or commercial production of mineral oil in the North Eastern Region" shall be inserted with effect from the 1st day of April, 1998;

(b) in sub-section (4), with effect from the 1st day of April, 1998, -

(i) for the portion beginning with the words "This section applies -" and ending with the words, brackets and figures "either of the conditions (iii) or (iv) are fulfilled, namely :-", the following shall be substituted, namely :-

"This section applies to the business of any hotel -

(a) where conditions (i), (ii) and (v); and

(b) either of the conditions (iii) or (iv); or

(c) either of the conditions (iiia) or (iva),

are fulfilled, namely :-";

(ii) after clause (iii), the following clause shall be inserted, namely :-

"(iiia) the business of the hotel, located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for tourism in any place and other relevant considerations, specify for the purpose of this clause, starts functioning at any time during the period beginning on the 1st day of April, 1998, and ending on the 31st day of March, 2001 :

Provided that nothing contained in this clause shall apply to any hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai;";

(iii) after clause (iv), the following clause shall be inserted, namely :-

"(iva) the business of the hotel, located in a place other than a place referred to in clause (iiia) of this sub-section and not being located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai, starts functioning at any time during the period beginning on the 1st day of April, 1997, and ending on the 31st day of March, 2001;";

(c) after sub-section (4B), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :-

"(4C) This section applies to any undertaking which starts providing telecommunication services whether basic or cellular at any time on or after the 1st day of April, 1995, but before the 31st day of March, 2000.";

(d) after sub-section (4C) as so inserted, the following sub-sections shall be inserted with effect from the 1st day of April, 1998, namely :-

"(4D) This section applies to any undertaking which begins to operate an industrial park notified by the

Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997, and ending on the 31st day of March, 2002.

(4E) This section applies to any undertaking which begins commercial production of mineral oil in the North Eastern Region.";

(e) in sub-section (5), -

(i) after clause (ib), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :-

'(ic) in the case of an undertaking referred to in sub-section (4C), hundred per cent. of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent. of the profits and gains derived from such business :

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;';

(ii) after clause (ic), as so inserted, the following clause shall be inserted with effect from the 1st day of April, 1998, namely :-

'(id) in the case of an industrial park referred to in sub-section (4D), hundred per cent. of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent. of the profits and gains derived from such business :

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;';

(iii) after clause (ii), the following clause shall be inserted with effect from the 1st day of April, 1998, namely :-

"(iia) in the case of a hotel referred to in clause (iiia) of sub-section (4), fifty per cent. of the profits and gains derived from the business of such hotel :

Provided that the said hotel is approved by the prescribed authority for the purposes of this clause in accordance with the rules made under this Act;";

(iv) in clause (iii), after the word, brackets and figures "clause (iv)", the words, brackets, figures and letter "or clause (iva)" shall be inserted with effect from the 1st day of April, 1998.

"(v) after clause (iv), the following clause shall be inserted with effect from the 1st day of April, 1998, namely :-

"(v) in the case of undertaking referred to in sub-section (4E) hundred per cent. of profits and gains derived from such business for the initial seven assessment years,";

(f) in sub-section (6), -

(i) after clause (v), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :-

"(vi) ten in the case of an assessee, being an undertaking referred to in sub-section (4C), deriving profits and gains from telecommunication services whether basic or cellular;";

(ii) after clause (vi) as so inserted, the following clauses shall be inserted with effect from the 1st day of April, 1998, namely :-

"(vii) ten in the case of an assessee, being an undertaking referred to in sub-section (4D), deriving profits and gains from operating an industrial park;

(viii) seven in the case of an assessee being an undertaking referred to in sub-section (4E) deriving profits and gains from commercial production of mineral oil in the North Eastern Region;";

(g) in sub-section (12), in clause (c) -

(i) after sub-clause (3), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :-

"(4) in the case of an undertaking referred to under sub-section (4C) means the assessment year relevant to the previous year in which the undertaking starts to provide the telecommunication services whether basic or cellular;";

(ii) after sub-clause (4) as so inserted, the following sub-clauses shall be inserted with effect from the 1st day of April, 1998, namely :-

"(5) in the case of undertaking operating an industrial park referred to under sub-section (4D) means the assessment year relevant to the previous year in which the undertaking starts operating such industrial park notified for the purposes of the said sub-section;

(6) in the case of an undertaking engaged in the business of commercial production of mineral oil referred to in sub-section (4E) means the assessment year relevant to the previous year in which the undertaking commences the commercial production of mineral oil;";

(iii) after clause (f), the following clause shall be inserted with effect from the 1st day of April, 1998, namely :-

'(g) "North Eastern Region" means the region comprising of the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.'.

Section 26 - Omission Of Section 80JJ

Section 80JJ of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Section 27 - Amendment Of Section 80L

In section 80L of the Income-tax Act, in sub-section (1) with effect from the 1st day of April, 1998, -

(a) clause (iv) shall be omitted;

(b) in clause (x), the words ", or dividend received from," shall be omitted;

(c) in the proviso, for the word, brackets and figures "clause (iv),", the word, brackets and figure "clause (i)" shall be substituted.

Section 28 - Omission Of Section 80M

Section 80M of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

Section 29 - Amendment Of Section 80-O

In section 80-O of the Income-tax Act, for the portion beginning with the words "any income by way of royalty" and ending with the words "outside India to such Government or enterprise by the assessee,", the words "any income received by the assessee from the Government of a foreign State or foreign enterprise in consideration for the use outside India of any patent, invention, design or registered trade mark" shall be substituted with effect from the 1st day of April, 1998.

Section 30 - Amendment Of Section 88

In section 88 of the Income-tax Act, in sub-section (2) in clause (xvi), with effect from the 1st day of April, 1998, -

(i) after the words "by a public company", the words "or as subscription to any eligible issue of capital by any public financial institution" shall be inserted;

(ii) in the Explanation, -

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

'(i) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue is utilised wholly and exclusively either for the purposes of developing, maintaining and operating an infrastructure facility or for generating, or for generating and distributing, power or for providing telecommunication services whether basic or cellular;';

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

'(iv) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956).'.

Section 31 - Substitution Of New Section For Section 88B

For section 88B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely :-

"88B. Rebate of income-tax in case of individuals of sixty-five years or above. - An assessee, being an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax or an amount of ten thousand rupees, whichever is less.".

Section 32 - Amendment Of Section 115A

In section 115A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1998, -

(a) in clause (a), for the word "dividends", wherever it occurs, the words "dividends other than dividends referred to in section 115-O" shall be substituted;

(b) in clause (b), for sub-clauses (A) and (B), the following sub-clauses shall be substituted, namely :-

"(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of thirty per cent. if such royalty is received in pursuance of an agreement made on or before the 31st day of May, 1997, and twenty per cent. where such royalty is received in pursuance of an agreement made after the 31st day of May, 1997;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of thirty per cent. if such fees for technical services are received in pursuance of an agreement made on or before the 31st day of May, 1997, and twenty per cent. where such fees for technical services are received in pursuance of an agreement made after the 31st day of May, 1997; and".

Section 33 - Amendment Of Section 115AC

In section 115AC of the Income-tax Act, for the word "dividends", wherever it occurs, the words "dividends other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 1998.

Section 34 - Amendment Of Section 115AD

In section 115AD of the Income-tax Act, in sub-section (1), in clause (a), for the word "income", the words "income other than income by way of dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 1998.

Section 35 - Amendment Of Section 115C

In section 115C of the Income-tax Act, in clause (c), for the words "income derived", the words, figures and letter "income derived other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 1998.

Section 36 - Substitution Of New Section For Section 115E

For section 115E of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely :-

"115E. Tax on investment income and long-term capital gains. - Where the total income of an assessee, being a non-resident Indian, includes -

(a) any income from investment or income from long-term capital gains of an asset other than a specified asset;

(b) income by way of long-term capital gains,

the tax payable by him shall be the aggregate of -

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

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

Section 37 - Amendment Of Section 115JA

In section 115JA of the Income-tax Act, in sub-section (2), -

(a) in clause (vii), in the Explanation, the word "or" shall be inserted at the end;

(b) after clause (vii) as so amended, the following clause shall be inserted with effect from the 1st day of April, 1998, namely :-

'(viii) the amount of profits, eligible for deduction under section 80HHC, computed under clause (a), (b) or (c) of sub-section (3) or sub-section (3A), as the case may be, of that section and subject to the conditions specified in sub-sections (4) and (4A) of that section;

(ix) the amount of profits eligible for deduction under section 80HHE, computed under sub-section (3) of that section.".

Section 38 - Insertion Of New Section 115JAA

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

"115JAA. Tax credit in respect of tax paid on deemed income relating to certain companies. - (1) Where any amount of tax is paid under sub-section (1) of section 115JA by an assessee being a company for any assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.

(2) The tax credit to be allowed under sub-section (1) shall be the difference of the tax paid for any assessment year under sub-section (1) of section 115JA and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act :

Provided that no interest shall be payable on the tax credit allowed under sub-section (1).

(3) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the provisions of sub-section (4) and sub-section (5) but such carry forward shall not be allowed beyond the fifth assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1).

(4) Tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of this Act other than section 115JA.

(5) Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (1) of section 115JA for that assessment year.

(6) Where as a result of an order under sub-section (1) or sub-section (3) of section 143, section 144, section 147, section 154, section 155, sub-section (4) of section 245D, section 250, section 254, section 260, section 262, section 263 or section 264, the amount of tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly."

Section 39 - Omission Of Chapter XII-C