

Finance Act 1997

Chapter III - Direct Taxes

In section 10 of the Income-tax Act, with effect from the 1st day of April, 1998, -

(a) after clause (6B), the following clause shall be inserted, namely :-

'(6BB) Where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under an agreement entered into after the 31st day of March, 1997, and approved by the Central Government in this behalf and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

Explanation. - For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident,;

(b) in clause (15), in sub-clause (iv), after item (i), in the Explanation, after clause (b), the following clause shall be inserted, namely :-

"(ba) the business of providing telecommunication services; or";

(c) in clause (15A), after the words "under an agreement", the words, figures and letters "entered into before the 1st day of April, 1997 and" shall be inserted.

(d) in clause (17), in sub-clause (iii), for the words "six hundred rupees per month", the words "two thousand rupees per month" shall be substituted;

(e) in clause (23F), in the Explanation, in clause (c), for the words "engaged in the", the words "engaged in the business of generation or generation and distribution of electricity or any other form of power or business of providing telecommunication services or in the" shall be substituted;

(f) in clause (23G), -

(i) the words, brackets, figures and letters, "which fulfils the conditions specified in sub-section (4A) of section 80-IA" shall be omitted;

(ii) in the Explanation, for clause (c), the following clause shall be substituted, namely :-

'(c) "infrastructure facility" means -

(i) a road, highway, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette, which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(ii) a water supply project, irrigation project, sanitation and sewerage system which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(iii) a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after the 1st day of April, 1993;

(iv) a project for providing telecommunication services on or after the 1st day of April, 1995;";

(g) clauses (26AA) and (28) shall be omitted.

(h) after clause (32), the following clause shall be inserted, namely :-

"(33) any income by way of dividends referred to in section 115-O;".

Section 4 - Amendment Of Section 16

In section 16 of the Income-tax Act, for clauses (i) and (ia), the following shall be substituted with effect from the 1st day of April, 1998, namely :-

"(i) a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty thousand rupees,

whichever is less.

Explanation. - For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;"

Section 5 - Amendment Of Section 35

In section 35 of the Income-tax Act, after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely :-

"(2AB) (1) Where a company engaged in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipment, computers, telecommunication equipment, chemicals or any other article or thing notified by the Board incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and one-fourth times of the expenditure so incurred.

(2) No deduction shall be allowed in respect of the expenditure mentioned in clause (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under clause (1) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and for audit of the accounts maintained for that facility.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the Direct-General in such form and within such time as may be prescribed."

Section 6 - Insertion Of New Section 35ABB

After section 35AB of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :-

'35ABB. Expenditure for obtaining licence to operate telecommunication services. - (1) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to operate telecommunication services and for which payment has actually been made to obtain a licence, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation. - For the purposes of this section, -

(i) "relevant previous year" means the previous years beginning with the previous year in which the licence fee is actually paid and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;

(ii) "appropriate fraction" means the fraction the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(iii) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(2) Where the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the previous year in which the licence is transferred.

(3) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income-tax as profits and gains of the business in the previous year in which the licence has been transferred.

Explanation. - Where the licence is transferred in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(4) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are not less than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1) in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year or years.

(5) Where a part of the licence is transferred in a previous year and sub-section (3) does not apply, the deduction to be allowed under sub-section (1) for expenditure incurred remaining unallowed shall be arrived at by -

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(b) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the licence to the amalgamated company (being an Indian company), -

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the amalgamating company; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the licence.'

Section 7 - Amendment Of Section 36

In section 36 of the Income-tax Act, -

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

(i) in clause (vii), in the proviso, for the words "a bank", the words "an assessee" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1992;

(ii) in clause (viii), with effect from the 1st day of April, 1998, -

(A) for the words "special reserve created", the words "special reserve created and maintained" shall be substituted;

(B) in the Explanation, for clause (d), the following clause shall be substituted, namely :-

'(d) "infrastructure facility" shall have the meaning assigned to it in clause (23G) of section 10.;

(b) in sub-section (2), for clause (v), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1992, namely :-

"(v) where such debt or part of debt relates to advances made by an assessee to which clause (viiia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause."

Section 8 - Amendment Of Section 37

In section 37 of the Income-tax Act, sub-sections (2), (3), (4) and (5) shall be omitted with effect from the 1st day of April, 1998.

Section 9 - Amendment Of Section 41

In section 41 of the Income-tax Act, with effect from the 1st day of April, 1998, -

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

"(4A) Where a deduction has been allowed in respect of any special reserve created and maintained under clause (viii) of sub-section (1) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn

Explanation. - Where any amount is withdrawn from the special reserve in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.";

(b) in sub-section (5), for the words, brackets and figure "or sub-section (4)", the words, brackets, figures and letter ", sub-section (4), or sub-section (4A)" shall be substituted.

Section 10 - Amendment Of Section 44AA

In section 44AA of the Income-tax Act, in sub-section (2) in clause (ii), for the words "during such previous year," the following shall be substituted with effect from the 1st day of April, 1998, namely :-

"during such previous year; or

(iii) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD or section 44AE or section 44AF, as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year,".

Section 11 - Amendment Of Section 44AB

In section 44AB of the Income-tax Act, in clause (b), for the words "previous year," the following shall be substituted with effect from the 1st day of April, 1998, namely :-

"previous year, or

(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD or section 44AE or section 44AF, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year,".

Section 12 - Amendment Of Section 44AD

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

(i) in sub-section (2), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely :-

"Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.";

(ii) sub-section (5) shall be omitted.

Section 13 - Amendment Of Section 44AE

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

(i) in sub-section (3), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely :-

"Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.";

(ii) sub-section (6) shall be omitted.

Section 14 - Insertion Of New Section 44AF

After section 44AE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1998, namely :-

'44AF. Special provisions for computing profits and gains of retail business. - (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to five per cent. of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

Provided that nothing contained in this sub-section shall apply in respect of an assessee whose total turnover exceeds an amount of forty lakh rupees in the previous year.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(3) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed

to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the total turnover, or, as the case may be, the income from the said business shall be excluded.'

Section 15 - Amendment Of Section 44B

In section 44B of the Income-tax Act, after sub-section (2), the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :-

"Explanation. - For the purposes of this sub-section, the amount referred to in clause (i) or clause (ii) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges and handling charges or any other amount of similar nature."

Section 16 - Amendment Of Section 47

In section 47 of the Income-tax Act, after clause (x), the following clauses shall be inserted with effect from the 1st day of April, 1998, namely :-

'(xi) any transfer made on or before the 31st day of December, 1997, by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange for shares allotted by that company to the transferor.

Explanation. - For the purposes of this clause, the expression "membership of a recognised stock exchange" means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contract (Regulation) Act, 1956 (42 of 1956);

(xii) any transfer of a capital asset, being land of sick industrial company, made under a scheme prepared and sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), where such sick industrial company is being managed by its workers' co-operative :

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation. - For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986).'

Section 17 - Amendment Of Section 47A

Section 47A of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely :-

'(2) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (xi) of section 47, any of the shares allotted to the transferor in exchange for a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (xi) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.'

Section 18 - Amendment Of Section 48

In section 48 of the Income-tax Act, after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 1998, namely :-

"Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture other than capital indexed bonds issued by the Government."

Section 19 - Amendment Of Section 55

In section 55 of the Income-tax Act, with effect from the 1st day of April, 1998, -

(a) in sub-section (1), in clause (b) in sub-clause (1), after the words "goodwill of a business", the words "or a right to manufacture, produce or process any article or thing" shall be inserted;

(b) in sub-section (2), in clause (a), after the words "being goodwill of a business", the words "or a right to manufacture, produce or process any article or thing," shall be inserted.

Section 20 - Amendment Of Section 57

In section 57 of the Act, in clause (iia), for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 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

Chapter XII-C of the Income-tax Act shall be omitted with effect from 1st day of April, 1998.

Section 40 - Insertion Of New Chapter XII-D

After section 115N of the Income-tax Act, the following Chapter shall be inserted with effect from 1st day of June, 1997, namely :-

CHAPTER XII-D

Special Provisions Relating To Tax On Distributed Profits Of Domestic Companies

115-O. Tax On Distributed Profits Of Domestic Companies. - (1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June, 1997, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of ten per cent.

(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on distributed profits under sub-section (1) shall be payable by such company.

(3) The principal officer of the domestic company and the company shall be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of -

(a) declaration of any dividend; or

(b) distribution of any dividend; or

(c) payment of any dividend,

whichever is earliest.

(4) The tax on distributed profits so paid by the company shall be treated as the final payment of tax in respect of the amount declared, distributed or paid as dividends and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(5) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the amount which has been charged to tax under sub-section (1) or the tax thereon.

115P. Interest Payable For Non-Payment Of Tax By Domestic Companies - Where the principal officer of a domestic company and the company fails to pay the whole or any part of the tax on distributed profits referred to in sub-section (1) of section 115-O, within the time allowed under sub-section (3) of that section, he or it shall be liable to pay simple interest at the rate of two per cent. for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115Q. When Company Is Deemed To Be In Default. - If any principal officer of a domestic company and the company does not pay tax on distributed profits in accordance with the provisions of section 115-O, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

Explanation. - For the purposes of this Chapter, the expression "dividends" shall have the same meaning as is given to "dividend" in clause (22) of section 2 but shall not include sub-clause (e) thereof.'

Section 41 - Amendment Of Section 132

In section 132 of the Income-tax Act, -

(a) in sub-section (8), for the words "Chief Commissioner or Commissioner", at both the places where they occur, the words "Chief Commissioner, Commissioner, Director-General or Director" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996;

(b) in sub-section (10), for the words "Chief Commissioner or Commissioner", the words "Chief Commissioner, Commissioner, Director-General or Director" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996.

Section 42 - Amendment Of Section 139

In section 139 of the Income-tax Act, in sub-section (1), -

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

"Provided that a person, not furnishing return under this sub-section and residing in such area as may be specified by the Board in this behalf by a notification in the Official Gazette, and who at any time during the previous year fulfils any two of the following conditions, namely :-

(i) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf; or

(ii) is the owner or the lessee of motor vehicle; or

(iii) is a subscriber to a telephone; or

(iv) has incurred expenditure for himself or any other person on travel to any foreign country,

shall furnish a return, of his income during the previous year, on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.";

(ii) after Explanation 2, the following Explanation shall be inserted, namely :-

'Explanation 3. - For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).'

Section 43 - Amendment Of Section 143

In section 143 of the Income-tax Act, in sub-section (1), in clause (a) with effect from the 1st day of April, 1998, -

(i) for the second proviso, the following proviso shall be substituted, namely :-

"Provided further that an intimation shall be sent to the assessee whether or not any adjustment has been made under the first proviso and notwithstanding that no tax or interest is due from him;"

(ii) in the third proviso, the words "for any tax or interest due" shall be omitted.

Section 44 - Amendment Of Section 167A

In section 167A of the Income-tax Act, for the words "maximum marginal rate", the words "rate as specified in the Finance Act of the relevant year" shall be substituted with effect from the 1st day of April, 1998.

Section 45 - Amendment Of Section 172

In section 172 of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :-

"(8) For the purposes of this section, the amount referred to in sub-section (2) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature."

Section 46 - Amendment Of Section 193

In section 193 of the Income-tax Act, in the proviso, with effect from the 1st day of June, 1997, -

(a) clause (iiia) shall be omitted;

(b) for clause (iv), the following clause shall be substituted, namely :-

"(iv) any interest payable on any security of the Central Government or a State Government."

Section 47 - Amendment Of Section 194

In section 194 of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :-

"Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O."

Section 48 - Amendment Of Section 194B

In section 194B of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :-

"Provided further that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings."

Section 49 - Amendment Of Section 195

In section 195 of the Income-tax Act, in sub-section (1), after the first proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :-

"Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O".

Section 50 - Amendment Of Section 196C

In section 196C of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :-

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O."

Section 51 - Amendment Of Section 196D

In section 196D of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :-

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O."

Section 52 - Amendment Of Section 206

Section 206 of the Income-tax Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:-

"(2) Notwithstanding anything contained in any other law for the time being in force, a return filed on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board (hereinafter referred to as the computer media) shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(3) A return filed under sub-section (2) shall fulfil the following conditions, namely :-

(a) while receiving returns on computer media, necessary checks by scanning the documents filed on computer media will be carried out and the media will be duly authenticated by the Assessing Officer; and

(b) the Assessing Officer shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data."

Section 53 - Amendment Of Section 271C

In section 271C of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 1997, namely :-

"(1) If any person fails to -

(a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B; or

(b) pay the whole or any part of the tax as required by or under, -

(i) sub-section (2) of section 115-O; or

(ii) second proviso to section 194B,

then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid."

Section 54 - Insertion Of New Section 271F

After section 271E of the Income-tax Act, the following section shall be inserted, namely :-

"271F. Penalty for failure to furnish return of income. - If a person who is required to furnish a return of his income as required by the proviso to sub-section (1) of section 139 fails to furnish such return on or before the due date, he shall be liable to pay by way of penalty, a sum of five hundred rupees."

Section 55 - Amendment Of Section 273B

In section 273B of the Income-tax Act, after the word, figures and letter "section 271E", the word, figures and letter "section 271F" shall be inserted.

Section 56 - Substitution Of New Section For Section 276B

For section 276B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 1997, namely :-

"276B. Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B. - If a person fails to pay to the credit of the Central Government, -

(a) the tax deducted at source by him as required by or under the provisions of Chapter XVII-B; or

(b) the tax payable by him, as required by or under, -

(i) sub-section (2) of section 115-O; or

(ii) second proviso to section 194B,

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine."

Section 57 - Amendment Of Section 281B

In section 281B of the Income-tax Act, in sub-sections (1) and (2), for the words "Chief Commissioner or Commissioner", the words "Chief Commissioner, Commissioner, Director-General or Director" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996.

Section 58 - Amendment Of Schedule IV

In Schedule IV to the Income-tax Act, in Part A, in rule 6, in clause (a), for the word "ten", the word "twelve" shall be substituted with effect from the 1st day of April, 1998.'

Section 59 - Amendment Of Section 4

In section 4 of the Interest-tax Act, 1974 (45 of 1974) (hereinafter referred to as the Interest-tax Act), in sub-section (2), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely :-

"Provided that the rate at which interest-tax shall be charged in respect of any chargeable interest accruing or arising after the 31st day of March, 1997, shall be two per cent. of such chargeable interest."

Section 60 - Amendment Of Section 21

In section 21 of the Interest-tax Act, after the figures and brackets "2(44)", the figures ", 119" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1991.

Section 61 - Amendment Of Section 4 Of Act 35 Of 1987

EXPENDITURE-TAX

In section 4 of the Expenditure-tax Act, 1987, clause (a), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 1998, namely :-

"Provided further that nothing in this clause shall apply in the case of a hotel referred to in clause (ia) of sub-section (5) of section 80-IA of the Income-tax Act, 1961 (43 of 1961) during the period beginning on the 1st day of April, 1998, and ending on the 31st day of March, 2008."
