Finance Act, 1987

Section 115J - Special provisions relating to certain companies

In section 2 of the Income-tax Act, -

(a) in clause (22), with effect from the 1st day of April, 1988, -

(i) in sub-clause (e), for the words "by way of advance or loan to a shareholder, being a person who has a substantial interest in the company,", the words, figures, letters and brackets "made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent. of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern)" shall be substituted;

(ii) in sub-clause (ii), after the words "a shareholder", the words "or the said concern" shall be inserted;

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

'Explanation 3 : For the purposes of this clause, -

(a) "concern" means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company;

(b) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the previous year, beneficially entitled to not less than twenty per cent. of the income of such concern;';

(b) in clause (24), after sub-clause (ix), the following sub-clause shall be inserted with effect from the 1st day of April, 1988, namely :-

"(x) any sum received by the assessee from his employees as contribution to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;";

(c) after clause (29), the following clauses shall be inserted with effect from the 1st day of April, 1988, namely :-

'(29A) "long-term capital asset" means a capital asset which is not a short-term capital asset;

(29B) "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset;';

(d) after clause (36), the following clause shall be inserted, namely :-

'(36A) "public sector company" means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);';

(e) in clause (42A), before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 1988, namely :-

'Provided that in the case of a share held in a company, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted.';

(f) after clause (42A), the following clause shall be inserted with effect from the 1st day of April, 1988, namely :-

'(42B) "short-term capital gain" means capital gain arising from the transfer of a short-term capital asset;';

(g) in clause (47), with effect from the 1st day of April, 1988, -

(i) in sub-clause (iv), the word "or" shall be inserted at the end;

(ii) after sub-clause (iv), the following sub-clauses and Explanation shall be inserted, namely :-

'(v) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or

(vi) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

Explanation : For the purposes of sub-clauses (v) and (vi), "immovable property" shall have the same meaning as in clause (d) of section 269UA

Section 4 - Amendment Of Section 10

In section 10 of the Income-tax Act, -

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

"(10C) any payment received by an employee of a public sector company at the time of his voluntary retirement in accordance with any scheme which the Central Government may, having regard to the economic viability of such company and other relevant circumstances, approve in this behalf."

(b) in clause (15), -

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

(A) in the opening paragraph, for the words, brackets and figures "the Post Office Savings Bank (Cumulative Time Deposits) Rules, 1959", the words and figures "the Post Office Cumulative Time Deposit Rules, 1981" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983;

(B) in the proviso, for the words, brackets and figures "in item (3) in the Table below rule 3 of the Post Office Savings Banks Rules, 1965", the words and figures "in item 6 in the Table below rule 4 of the Post Office Savings Account Rules, 1981" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983;

(ii) in sub-clause (iv), after item (g) and the Explanation thereto, the following item shall be inserted, namely :-

"(h) by any public sector company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;";

(c) in clause (17), -

(i) in sub-clause (i), the word "and" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1986;

(ii) for sub-clause (ii), the following sub-clauses shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1986, namely :-

"(ii) any allowance received by any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986;

(iii) all other allowances not exceeding six hundred rupees per month in the aggregate received by any person by reason of his membership of any State Legislature or of any Committee thereof, which the Central Government may, by notification in the Official Gazette, specify in this behalf;".

Section 5 - Amendment Of Section 10A

In section 10A of the Income-tax Act, in the Explanation occurring at the end after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1981, namely :-

'(iii) "manufacture" includes any -

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device.'.

Section 6 - Amendment Of Section 27

In section 27 of the Income-tax Act, for clause (iii), the following clauses shall be substituted with effect from the 1st day of April, 1988, namely :-

"(iii) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof;

(iiia) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), shall be deemed to be the owner of that building or part thereof;

(iiib) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (f) of section 269UA, shall be deemed to be the owner of that building or part thereof;".

Section 7 - Amendment Of Section 32AB

In section 32AB of the Income-tax Act, -

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

(i) for the words "deduction of", the words, brackets and figures "deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of" shall be substituted;

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

"Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner, or, as the case may be, any member, of such firm, association of persons or body of individuals.";

(b) in sub-section (2), for clause (ii), the following clauses shall be substituted, namely :-

'(ii) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(iii) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely :-

(a) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(iv) "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);';

(c) in sub-section (3), in clause (a), for the words "as increased by an amount equal to the depreciation, if any, debited in the audited profit and loss account; and", the following shall be substituted, namely :-

"as increased by the aggregate of -

(i) the amount of depreciation;

(ii) the amount of income-tax paid or payable, and provision therefor;

(iii) the amount of surtax paid or payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(iv) the amounts carried to any reserves, by whatever named called;

(v) the amount or amounts set aside of provisions made for meeting liabilities, other than ascertained liabilities;

(vi) the amount by way of provision for losses of subsidiary companies; and

(vii) the amount or amounts of dividends paid or proposed, if any debited to the profit and loss account; and as reduced by any amount or amounts withdrawn from reserves or provisions, if such amounts are credited to the profit and loss account; and";

(d) after sub-section (5), the following sub-sections shall be inserted namely :-

'(5A) Any amount standing to the credit of the assessee in the deposit account shall not be allowed to be withdrawn before the expiry of a period of five years from the date of deposit except for the purposes specified in the scheme and in the circumstances specified below :-

(a) closure of business;

(b) death of an assessee;

(c) partition of a Hindu undivided family;

(d) dissolution of a firm;

(e) liquidation of a company.

(5B) Where any amount standing to the credit of the assessee in the deposit account is utilised by the assessee for the purposes of any expenditure in connection with the eligible business or profession in accordance with the scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".';

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

(i) for the words "is not utilised in accordance with the scheme", the words "is not utilised in accordance with, and within the time specified in, the scheme" shall be substituted;

(ii) the words "within that previous year," shall be omitted.

Section 8 - Amendment Of Section 33AB

In section 33AB of the Income-tax Act, in sub-section (5), for the words, figures and letters "assessment year commencing on the 1st day of April, 1986, and the four assessment year next following that assessment year", the words, figures and letters "assessment years commencing on the 1st day of April, 1986, and the 1st day of April, 1987" shall be substituted with effect from the 1st day of April, 1988.

Section 9 - Amendment Of Section 36

In section 36 of the Income-tax Act, in sub-section (1), after clause (v), the following clause shall be inserted with effect from the 1st day of April, 1988, namely :-

'(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation : For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise.'.

Section 10 - Amendment Of Section 43B

In section 43B of the Income-tax Act, before the Explanation, the following provisos shall be inserted with effect from the 1st day of April, 1988, namely :-

"Provided that nothing contained in this section shall apply in relation to any sum referred to in clause (a) which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return :

Provided further that no deduction shall, in respect of any sum referred to in clause (b), be allowed unless such sum has actually been paid during the previous year on or before the due date as defined in the Explanation below clause (va) of sub-section (1) of section 36."

Section 11 - Insertion Of New Section 44BB

In the Income-tax Act, after section 44B, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1983, namely :-

'44BB. Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils. - (1) Notwithstanding anything to the contrary contained in section 28 to 41 and sections 43 and 43A, in the case of an assessee engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils, a sum equal to ten per cent. of the aggregate of the amounts specified in sub-section (2) shall be deemed to be profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :

Provided that this sub-section shall not apply in a case where the provisions of section 42 or section 44D or section 115A or section 293A apply for the purposes of computing profits or gains other income referred to in those sections.

(2) The amounts referred to in sub-section (1) shall be the following namely :-

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction of production of, mineral oils in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of service and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.

Explanation : For the purposes of this section, -

(i) "plant" includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purposes of the said business;

(ii) "mineral oil" includes petroleum and natural gas.'

Section 12 - Insertion Of New Section 44BBA

In the Income-tax Act, after section 44BB (as directed to be inserted by section 11), the following section shall be inserted with effect from the 1st day of April, 1988, namely :-

'44BBA. Special provision for computing profits and gains of the business of operation of aircraft in the case of non-residents. - (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to five per cent. of the aggregate of the amounts specified in sub-section (2) 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".

(2) The amounts referred to in sub-section (1) shall be the following namely :-

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, live-stock, mail or goods from any place in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, live-stock, mail or goods from any place outside India.'.

Section 13 - Amendment Of Section 45

In section 45 of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in sub-section (1), for the figures, letters and word "54E and 54F", the figures, letters and word "54E, 54F and 54G" shall be substituted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely :-

'(3) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

(4) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and, for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer.

(5) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, tribunal or other authority, the capital gain shall be dealt with in the following manner, namely :-

(a) the capital gain computed with reference to the compensation awarded in the first instance or, as the case may be, the consideration determined or approved in the first instance by the Central Government or the Reserve Bank of India shall be chargeable as income under the head "Capital gains" of the previous year in which the transfer took place; and

(b) the amount by which the compensation or consideration is enhanced or further enhanced by the court, tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which such amount is received by the assessee.

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

(i) in relation to the amount referred to in clause (b), the cost of acquisition and the cost of improvement shall be taken to be nil;

(ii) the provisions of this sub-section shall apply also in a case where the transfer took place prior to the 1st day of April, 1988;

(iii) where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the amount referred to in clause (b) shall be deemed to be the income, chargeable to tax under the head "Capital gains", of such other person.'.

Section 14 - Amendment Of Section 47

In section 47 of the Income-tax Act, clause (ii) shall be omitted with effect from the 1st day of April, 1988.

Section 15 - Substitution Of New Section For Section 48

For section 48 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely :-

'48. Mode of computation and deductions. - (1) The income chargeable under the head "Capital gains" shall be computed, -

(a) by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :-

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

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

(b) where the capital gain arises from the transfer of a long-term capital asset (hereafter in this section referred to respectively, as long-term capital gain and long-term capital asset) by making the further deductions specified in sub-section (2),

(2) The deductions referred to in clause (b) of sub-section (1) are the following namely :-

(a) where the amount of long-term capital gain arrived at after making the deductions under clause (a) of sub-section (1) does not exceed ten thousand rupees, the whole of such amount;

(b) in any other case, ten thousand rupees as increased by a sum equal to, -

(i) in respect of long-term capital gain so arrived at relating to capital assets, being buildings or lands or any rights in buildings or lands or gold, bullion or jewellery, -

(A) in the case of a company, ten per cent. of the amount of such gain in excess of ten thousand rupees;

(B) in the case of any other assessee, fifty per cent. of the amount of such gain in excess of ten thousand rupees;

(ii) in respect of long-term capital gain so arrived at relating to other capital assets, -

(A) in the case of a company, thirty per cent. of the amount of such gain in excess of ten thousand rupees;

(B) in any other case, sixty per cent. of the amount of such gain in excess of ten thousand rupees :

Provided that where the long-term capital gain relates to both categories of capital assets referred to in sub-clause (i) and (ii), the deduction of ten thousand rupees shall be allowed in the following order, namely :-

(1) the deduction shall first be allowed against long-term capital gain relating to the assets mentioned in sub-clause (i);

(2) thereafter, the balance, if any, of the said ten thousand rupees shall be allowed as deduction against long-term capital gain relating to the assets mentioned in sub-clause (ii), and the provisions of sub-clause (ii) shall apply as if references to ten thousand rupees therein were references to the amount of deduction allowed in accordance with clauses (1) and (2) of this proviso :

Provided further that, in relation to the amount referred to in clause (b) of sub-section (5) of section 45, the initial deduction of ten thousand rupees under clause (a) of this sub-section shall be reduced by the deduction already allowed under clause (a) of section 80T in the assessment for the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year or, as the case may be, by the deduction allowed under clause (a) of this sub-section in relation to the amount of compensation or consideration referred to in clause (a) of sub-section (5) of section 45 and references to ten thousand rupees in clauses (a) and (b) of this sub-section shall be construed as references to such reduced amount, if any.

(3) The deductions specified in sub-section (2) shall be made also for the purposes of computing any loss under the head "Capital gains" in so far as it pertains to any long-term capital asset and, for this purposes, any reference in that sub-section to the amount of long-term capital gain arrived at after making the deductions under clause (a) of sub-section (1) shall be construed as reference to the amount of loss arrived at after making the said deductions.'.

Section 16 - Amendment Of Section 49

In section 49 of the Income-tax Act, in sub-section (1), in clause (iii), for sub-clause (b), the following sub-clause shall be substituted with effect from the 1st day of April, 1988, namely :-

"(b) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or".

Section 17 - Omission Of Section 52

Section 52 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Section 18 - Amendment Of Section 53

In section 53 of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in the opening paragraph, -

(i) after the words "assessee being an individual", the words "or a Hindu undivided family" shall be inserted;

(ii) for the words and brackets "capital asset (other than a short-term capital asset)", the words "long-term capital asset" shall be substituted;

(b) the following Explanation shall be added at the end, namely :-

"Explanation : In this section and in sections, 54, 54B, 54D, 54E, 54F and 54G, references to capital gain shall be construed as references to the amount of capital gain as computed under clause (a) of sub-section (1) of section 48.".

Section 19 - Amendment Of Section 54

In section 54 of the Income-tax Act, with effect from the 1st day of April, 1988, -

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

(i) for the words "Where, in the case of an assessee being an individual", the words, brackets and figure "Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family" shall be substituted;

(ii) the Explanation at the end shall be omitted;

(b) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new assets made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then, -

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation : Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then, -

(a) for the purposes of the deductions to be made under clause (b) of sub-section (1) of section 48, the initial deduction of ten thousand rupees under sub-section (2) of that section shall not be admissible; and

(b) nothing contained in section 53 shall apply in relation to such amount.".

Section 20 - Amendment Of Section 54B

In section 54B of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in sub-section (1), for the words "Where the capital gain arises", the words, brackets and figure "Subject to the provisions of sub-section (2), where the capital gain arises" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) The amount of the capital gain which is not utilised by the assessee for the purchase of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase of the new asset within the period specified in sub-section (1), then, -

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of two years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation : Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (b) of sub-section (1) of section 48, the initial deduction of ten thousand rupees under sub-section (2) of that section shall not be admissible.".

Section 21 - Amendment Of Section 54D

In section 54D of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in sub-section (1), for the words "Where the capital gain arises", the words, brackets and figure "Subject to the provisions of sub-section (2), where the capital gain arises" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) The amount of the capital gain which is not utilised by the assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then, -

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation : Where any amount becomes chargeable under section 45 in accordance with the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (b) of sub-section (1) of section 48, the initial deduction of ten thousand rupees under sub-section (2) of that section shall not be admissible."

Section 22 - Amendment Of Section 54E

In section 54E of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in sub-section (1), for the words "capital asset, not being a short-term capital asset", the words "long-term capital asset" shall be substituted;

(b) in sub-section (2), for the words "capital assets other than short-term capital assets", the words "long-term capital assets" shall be substituted;

(c) sub-sections (3), (4) and (5) shall be omitted;

(d) sub-section (6) shall be renumbered as sub-section (3), and in that sub-section as so renumbered, the words, brackets, letters and figure "or clause (a) or clause (b) of sub-section (3)" shall be omitted.

Section 23 - Amendment Of Section 54F

In section 54F of the Income-tax Act, with effect from the 1st day of April, 1988, -

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

(i) for the words "Where, in the case of an assessee being an individual" the words, brackets and figure "Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family" shall be substituted;

(ii) after the words "period of one year before or", the words "two years" shall be inserted;

(iii) in the Explanation, -

(A) clause (i) shall be omitted;

(B) in clause (ii), the brackets and figures "(ii)" shall be omitted;

(b) in sub-section (2), for the words "one year", the words "two years" shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely :-

"(4) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then, -

(i) the amount by which -

(a) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1), exceeds

(b) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchased or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw the unutilised amount in accordance with the scheme aforesaid.

Explanation : Where any amount becomes chargeable under section 45 in accordance with sub-section (2) or sub-section (3) or the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (b) of sub-section (1) of section 48, the initial deduction of ten thousand rupees under sub-section (2) of that section shall not be admissible.".

Section 24 - Insertion Of New Section 54G

After section 54F of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely :-

'54G. Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area. - (1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking (hereafter in this section referred to as the original asset) to any area (other than an urban area) and the assessee has within a period of one year before or three years after the date on which the transfer took place, -

(a) purchased new machinery or plant for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted;

(b) acquired building or land or constructed building for the purposes of his business in the said area;

(c) shifted the original asset and transferred the establishment of such undertaking to such area; and

(d) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say, -

(i) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be nil; or

(ii) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation : In this sub-section, "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the purposes aforesaid together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within the period specified in that sub-section, then, -

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation : Where any amount becomes chargeable, under section 45 in accordance with the proviso to this sub-section, then, for the purposes of the deductions to be made under clause (b) of sub-section (1) of section 48, the initial deduction of ten thousand rupees under sub-section (2) of that section shall not be admissible.'.

Section 25 - Amendment Of Section 55

In section 55 of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in sub-section (1), in clause (b), for the words "cost of any improvement", in relation to a capital asset, - ', the following shall be substituted, namely :-

'"Cost of any improvement", -

(1) in relation to a capital asset being goodwill of a business shall be taken to be nil; and

(2) in relation to any other capital asset, - ';

(b) in sub-section (2), for the opening portion, the following shall be substituted, namely :-

'For the purposes of sections 48 and 49, "cost of acquisition", -

(a) in relation to a capital asset, being goodwill of a business, -

(i) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and

(ii) in any other case, shall be taken to be nil;

(b) in relation to any other capital asset, -'.

Section 26 - Amendment Of Section 56

In section 56 of the Income-tax Act, in sub-section (2), after clause (ib), the following clause shall be inserted with effect from the 1st day of April, 1988, namely :-

'(ic) income referred to in sub-clause (x) of clause (24) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession";'.

Section 27 - Amendment Of Section 57

In section 57 of the Income-tax Act, after clause (i), the following clause shall be inserted with effect from the 1st day of April, 1988, namely :-

'(ia) in the case of income of the nature referred to in sub-clause (x) of clause (24) of section 2 which is chargeable to income-tax under the head "Income from other sources", deductions, so far as may be, in accordance with the provisions of clause (va) of sub-section (1) of section 36;'.

Section 28 - Amendment Of Section 70

In section 70 of the Income-tax Act, with effect from the 1st day of April, 1988, -

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

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

(ii) the words 'other than "Capital gains"' shall be omitted;

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

Section 29 - Substitution Of New Section For Section 71

For section 71 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely :-

"71. Set off of loss from one head against income from another. - Where in respect of any assessment year, the net result of the computation under any head of income is a loss, the assessee shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable, for that assessment year under any other head.".

Section 30 - Amendment Of Section 72

In section 72 of the Income-tax Act, in sub-section (1), the portion beginning with the words "where the assessee" and ending with the words "of that section or" shall be omitted with effect from the 1st day of April, 1988.

Section 31 - Substitution Of New Section For Section 74

For section 74 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely :-

'74. Losses under the head "Capital gains". - (1) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss to the assessee and such loss cannot be or is not wholly set off against income under any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and -

(a) it shall be set off against income, if any, under the head "Capital gains" assessable for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year, and so on.

(2) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

(3) Any loss computed under the head "Capital gains" in respect of the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year which is carried forward in accordance with the provisions of this section as it stood before the 1st day of April, 1988, shall be dealt with in the assessment year commencing on the 1st day of April, 1988, or any subsequent assessment year as follows :-

(a) in so far as such loss relates to short-term capital assets, it shall be carried forward and set off in accordance with the provisions of sub-sections (1) and (2);

(b) in so far as such loss relates to long-term capital assets, it shall be reduced by the deductions specified in sub-section (2) of section 48 and the reduced amount shall be carried forward and set off in accordance with the provisions of sub-section (1) but such carry forward shall not be allowed beyond the fourth assessment year immediately succeeding the assessment year for which the loss was first computed.'

Section 32 - Amendment Of Section 80C

In section 80C of the Income-tax Act, with effect from the 1st day of April, 1988, -

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

'(h) where the assessee is an individual or a Hindu undivided family or where the assessee is an association of persons or a body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, any sums paid in the previous year by such assessee out of his or its income chargeable to tax, -

(i) as subscription to any such security of the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf; or

(ii) for the purposes of purchase or construction of a residential house property the construction of which is completed after the 31st day of March, 1987, and the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the assessee's own residence, have been chargeable to tax under that head), where such payments are made towards or by way of -

(a) any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(b) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(c) repayment of the amount borrowed by the assessee from -

(1) the Central Government or any State Government, or

(2) any bank, including a co-operative bank, or

(3) the Life Insurance Corporation, or

(4) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is approved for the purposes of clause (viii) of sub-section (1) of section 36, or

(5) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or

(6) the assessee's employer where such employer is a public company;

(d) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee,

but shall not include any payment towards or by way of -

(A) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(B) the cost of the land, except where the consideration for the purchase of the house property is a composite amount and the cost of the land alone cannot be separately ascertained; or

(C) the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue such certificate or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or been let out; or

(D) any expenditure in respect of which deduction is allowable under the provisions of section 24;';

(b) in sub-section (4), in clause (ii), for the words, brackets, letter and figure "referred to in clause (g) of sub-section (2)", the words, brackets, letters and figure "referred to in clause (g) or clause (h) of sub-section (2)" shall be substituted;

(c) after sub-section (6) and the Explanations below that sub-section, the following sub-sections shall be inserted, namely :-

'(7) In the case of an assessee referred to in clause (h) of sub-section (2), -

(a) where any sums specified in sub-clause (ii) of that clause, with reference to which the deduction under sub-section (1) has been allowed are refunded to or received back by the assessee in any previous year (hereinafter referred to as the relevant previous year), then, -

(i) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, specified in that sub-clause, paid in the relevant previous year; and

(ii) the aggregate amount of the deductions so allowed in respect of the previous year or previous years preceding the relevant previous year shall be deemed to be the income of the assessee of the relevant previous year and shall be chargeable to tax under the head "Income from other sources";

(b) where the house property referred to in sub-clause (ii) of that clause is transferred by the assessee before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, then, -

(i) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, specified in that sub-clause, paid in the previous year in which the transfer is so made; and

(ii) the aggregate amount of the deductions allowed under sub-section (1) with reference to the sums specified in that sub-clause in respect of the previous year or previous years preceding the previous year referred to in sub-clause (i) of this clause shall be deemed to be the income of the assessee of the previous year in which the transfer is made and shall be chargeable to tax under the head "Income from other sources";

(c) where the aggregate of any sums specified in sub-clause (ii) of that clause exceeds an amount of ten thousand rupees, a deduction under sub-section (1) shall be allowed with reference to so much of the aggregate as does not exceed an amount of ten thousand rupees.

(8) In this section, -

(a) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

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

(c) "transfer" shall be deemed to include also the transactions referred to in clause (f) of section 269UA.'.

Section 33 - Amendment Of Section 80CC

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

(a) in sub-section (3), in clause (c), for the words, figures and letters "the 1st day of April, 1987", the words, figures and letters "the 1st day of April, 1990" shall be substituted;

(b) in sub-section (5), for the words "five years", the words "three years" shall be substituted.

Section 34 - Insertion Of New Section 80CCA

In the Income-tax Act, after section 80CC, the following section shall be inserted with effect from the 1st day of April, 1988, namely :-

"80CCA. Deduction in respect of deposits under National Savings Scheme. - (1) Where an assessee, being -

(a) an individual, or

(b) a Hindu undivided family, or

(c) an association of persons or a body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,

has in the previous year deposited out of his income chargeable to tax any amount in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf (hereafter in this section referred to as the National Savings Scheme), he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income of an amount equal to fifty per cent. of so much of the deposits (excluding interest accrued and credited to the assessee's account) as do not exceed the amount of twenty thousand rupees in the previous year.

(2) Where any amount standing to the credit of the assessee under the National Savings Scheme in respect of which a deduction has been allowed under sub-section (1) together with the interest accrued on such amount is withdrawn in whole or in part in any previous year, an amount equal to fifty per cent. of the amount so withdrawn shall be deemed to be the income of the assessee of that previous year in which such withdrawal is made and shall, accordingly, be chargeable to tax as the income of that previous year.

Explanation : For the removal of doubts, it is hereby declared that interest on the deposits made under the National Savings Scheme shall not be chargeable to tax except in the manner and to the extent specified in sub-section (2).".

Section 35 - Amendment Of Section 80G

In section 80G of the Income-tax Act, in sub-section (5), in clause (i), for the words, brackets, figures and letter "or clause (23C)", the words, brackets, figures and letters "or clause (23AA) or clause (23C)" shall be substituted with effect from the 1st day of April, 1988.

Section 36 - Amendment Of Section 80-O

In section 80-O of the Income-tax Act, with effect from the 1st day of April, 1988, -

(a) in the opening paragraph, -

(i) the portion beginning with the words "or having been received in convertible foreign exchange outside India" and ending with the words "and dealings in foreign exchange," shall be omitted;

(ii) for the words "so received in, or brought into, India", the words "so received in India" shall be substituted;

(b) after the second proviso, the following proviso shall be inserted, namely :-

"Provided also that such income is received in India within a period of six months from the end of the previous year, or where the Commissioner is satisfied (for reasons to be recorded in writing) that the assessee is, for reasons beyond his control, unable to do so within the said period of six months, within such further period as the Commissioner may allow in this behalf.";

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

'(ii) "foreign enterprise" means a person who is a non-resident.'.

Section 37 - Amendment Of Section 80RRA

In section 80RRA of the Income-tax Act, in sub-section (1), for the words "of an amount equal to the fifty per cent. thereof", the following shall be substituted with effect from the 1st day of April, 1988, namely :-

"of an amount equal to, -

(i) fifty per cent. of the remuneration; or

(ii) seventy-five per cent. of such remuneration as is brought into India by, or on behalf of, the assessee in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder,

whichever is higher".

Section 38 - Omission Of Section 80T

Section 80T of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Section 39 - Amendment Of Section 80U

In section 80U of the Income-tax Act, in sub-section (1), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1988.

Section 40 - Omission Of Chapter VIB