

Finance Act, 1985

Section 2 - Income-tax

1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1985, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased, - (a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and (b) in the cases to which Paragraph E of that Part applies, by a surcharge calculated in each case in the manner provided therein: Provided that where an assessee, being a company, has made, during the financial year commencing on the 1st day of April, 1984, any deposit with the Industrial Development Bank of India established under (Industrial Development Bank of India Act, 1964), under (Companies Deposits (surcharge on Income-tax) Scheme, 1984), then, the surcharge on income-tax payable by the company, (a) in a case where the amount of the deposit so made is equal to, or exceeds, the amount of surcharge on income-tax payable by it, shall be nil; and (b) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit. (2) In the cases to which Sub-Paragraph I or Sub-paragraph II of Paragraph A of Part I of the Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees in addition to total income, and the total income exceeds-- (i) in a case to which the said Sub-paragraph I applies, fifteen thousand rupees, and (ii) in a case to which the said Sub-paragraph II applies, twelve thousand rupees, then,--- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after,---- (i) in a case to which the said Sub-paragraph I applies, the first fifteen thousand rupees, and (ii) in a case to which the said Sub-paragraph II applies, the first eight thousand rupees, of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income, and (b) the income-tax chargeable shall be calculated as follows:- (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-paragraph i or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income: Provided that in a case referred to in the said Sub-Paragraph II, for the purpose of determining the amount of income-tax in accordance with this sub-clause, the provisions of Clause (ii) of the proviso below Sub-Paragraph II and the provisions relating to surcharge on income-tax in the said Sub-Paragraph II shall not apply; (ii) the net agricultural income shall be increased,--- (iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii): Provided that in a case referred to in the said Sub-Paragraph II, where the sum so arrived at exceeds sixty per cent. of the amount by which the total income exceeds twelve thousand rupees, the excess shall be disregarded; (iv) the amount of income-tax determined in accordance with sub-clause (iii) shall be increased by a surcharge for purposes of the Union calculated at the rate of twelve and a half per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income. (3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (IA) of (Section 161) or (S.164 OF THE INCOME TAX ACT, 1961) or (Section 164A) or (S.167A of the Income tax Act, 1961) (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be. (4) In cases in which tax has to be deducted under (S.193 of the Income tax Act, 1961) at the rates in force, the deduction shall be made at the rates specified in Para II of the First Schedule. (5) Subject to the provisions of sub-section (6), in cases in which income-tax has to be calculated under the first proviso to the sub-section (5) of (S.132 of the Income tax Act, 1961) or charged under sub-section (4) of (section 172) or sub-section (2) of (Section 174) or (Section 175) or sub-section (2) of (Section 176) of the said Act or deducted under (Section 192) of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of (S.80E of the Income tax Act, 1961) of the said Act from any payment referred to in the said sub-section (9) or in which the "advance

tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule: Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (IA) of (S.161 of the Income tax Act, 1961) apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be. Provided further that an assessee, being a company, may, in lieu of payment of the amount of surcharge on income-tax at the rate specified in paragraph E of Part III of the First Schedule, make, a deposit under the scheme framed under sub-section (7) before the last instalment of "advance tax" is due in its case, and where it does so, the surcharge on income-tax payable by the company,--- (i) in a case where the amount of the deposit so made is equal to or exceeds the amount of surcharge on income-tax payable by it, shall be nil. and (ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit. (6) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has in the previous year or. if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds.--- (i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and (ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of (S.132 of the Income tax Act, 1961) or in charging income-tax under sub-section (2) of (section 174) or (section 175) or sub-section (2) of (section 176) of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act. at the rate or rates in force,--- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say. as if the net agricultural income were comprised in the total income after. --- (i) in a case to which the said Sub-Paragraph I applies, the first fifteen thousand rupees, and (ii) in a case to which the said Sub-Paragraph II applies, the first eight thousand rupees, of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or. as the case may be. "advance tax" in respect of the total income: and (b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:--- (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income; (ii) the net agricultural income shall be increased.--- (iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income. (7) Where an assessee, being a company, makes, during the financial year commencing on the 1st day of April 1985, any deposit with the Industrial Development Bank of India established under (Industrial Development bank of India Act, 1964) , under any such scheme as the Central Government may by notification in the Official Gazette, frame in this behalf, then the surcharge on income-tax payable by the company for the assessment year commencing on the 1st day of April, 1986,--- (i) in a case where the amount of the deposit so made is equal to or exceeds the amount of surcharge on income-tax payable by it, shall be nil; and (ii) in a case where the amount of the deposit so made falls short of the amount of surcharge on income-tax payable by it, shall be reduced by the amount of the deposit. (8) For the purposes of this section and the First Schedule,--- (a) "company in which the public are substantially interested" means a company which is such a company as is referred to in (S.108 of the Income tax Act, 1961); (b) "domestic company" means as Indian Company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1985, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of (section 194) of that Act; (c) "Industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the carriage, by road or inland waterways, of passengers or goods or in the construction of ships or in the execution of projects or in the manufacture or processing of goods or in mining. Explanation.- For the purposes of this clause,--- (i) a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or

any other form of power or in the carriage, by road or inland waterways, of passengers or goods or in the construction of ships or in the execution of projects or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VIA of the Income-tax Act) is not less than fifty-one per cent. of such total income; (ii) "project" means a project for the construction of a building, road, dam, bridge or other structure or assembly or installation of any machinery or plant; (d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance); (e) "investment company" means a company whose gross total income (as defined in (S.80B of the Income tax Act, 1961) consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources"; (f) "net agricultural income", in relation to a person means the total amount of agri- cultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule; (g) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government; (h) "trading company" means a company whose business consists mainly in dealing in goods or merchandise manufactured, produced or processed by a person other than that company and whose income attributable to such business included in its gross total income (as defined in (S.80B of the Income tax Act, 1961) is not less than fifty- one per cent. of the amount of such gross total income; (i) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act, shall have the meanings, respectively, assigned to them in that Act