Finance (No. 2) Act, 1996

Chapter III - Direct Taxes Income-tax

In section 2 of the Income-tax Act with effect from the 1st day of October, 1996, -

(a) in clause (7A), for the words "Assistant Commissioner" and "Deputy Commissioner", the words "Assistant Commissioner or Assistant Director" and "Deputy Commissioner or Deputy Director" shall respectively be substituted;

(b) in clause (24), after sub-clause (x), the following sub-clause shall be inserted, namely :-

'(xi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation : For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in the Explanation to clause (10D) of section 10;'.

Section 4 - Amendment Of Section 10

In section 10 of the Income-tax Act, -

(a) in clause (10A), after sub-clause (ii), the following sub-clause shall be inserted with effect from the 1st day of April, 1997, namely :-

"(iii) any payment in commutation of pension received from a fund under clause (23AAB);";

(b) in clause (10D), after the words, brackets, figures and letters "other than any sum received under sub-section (3) of section 80DDA", the following shall be inserted with effect from the 1st day of October, 1996, namely :-

'or under a Keyman insurance policy.

Explanation : For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person;';

(c) in clause (15), in sub-clause (iv), after item (i), in the Explanation, for clause (e), the following clause shall be substituted with effect from the 1st day of April, 1997, namely :-

"(e) the operation of ships or aircrafts or construction or operation of rail systems;";

(d) after clause (23AAA), the following clause shall be inserted with effect from the 1st day of April, 1997, namely :-

'(23AAB) any income of a fund, by whatever named called, set up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 under a pension scheme, -

(i) to which contribution is made by any person for the purpose of receiving pension from such fund;

(ii) which is approved by the Controller of Insurance.

Explanation : For the purposes of this clause, the expression "Controller of Insurance" shall have the meaning assigned to it in clause (5B) of section 2 of the Insurance Act, 1938 (4 of 1938);';

(e) after clause (23BBB), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1992, namely :-

"(23BBC) any income of the SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st day of December, 1991 by the Heads of State or Government of the member Countries of South Asian Association for Regional Co-operation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Co-operation;";

(f) after clause (23F), the following clause shall be inserted with effect from the 1st day of April, 1997, namely :-

'(23G) any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility, which fulfils the conditions specified in sub-section (4A) of section 80-IA.

Explanation : For the purposes of this clause, -

(a) "infrastructure capital company" means such company as has made investments by way of acquiring shares or providing long-term finance to an enterprise carrying on the business of developing, maintaining and operating infrastructure facility;

(b) "infrastructure capital fund" means such fund operating under a trust deed, registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise carrying on the business of developing, maintaining and operating infrastructure facility;

(c) "infrastructure facility" shall have the meaning assigned to it in clause (ca) of sub-section (12) of section 80-IA;

(d) "long-term finance" shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;';

(g) for clause (24), the following clause shall be substituted with effect from the 1st day of April, 1997, namely :-

'(24) any income chargeable under the heads "Income from house property" and "Income from other sources" of -

(a) a registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926) formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;

(b) an association of registered unions referred to in sub-clause (a);'.

Section 5 - Amendment Of Section 12A

In section 12A of the Income-tax Act, in clause (a), for the words "whichever is later", the words, figures and letters "whichever is later and such trust or institution is registered under section 12AA" shall be substituted with effect from the 1st day of April, 1997.

Section 6 - Insertion Of New Section 12AA

After section 12A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1997, namely :-

"12AA. Procedure for registration. - (1) The Chief Commissioner or Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) of section 12A, shall -

(a) call for such documents or information from the trust or institution as he think necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he -

(i) shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant :

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(2) Every order granting or refusing registration under clause (b) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) of section 12A."

Section 7 - Amendment Of Section 16

In section 16 of the Income-tax Act, for clause (i), the following clauses shall be substituted with effect from the 1st day of April, 1997, namely :-

'(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause, does not exceed sixty thousands rupees, a deduction of a sum equal to thirty-three and one-third per cent. of the salary of eighteen thousands rupees, whichever is less;

(ia) in any other case, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or fifteen thousand rupees, whichever is less :

Provided that in the case of an assessee, being a woman, whose total income before making any deduction under this clause, does not exceed seventy-five thousand rupees, the provisions of this clause shall have effect as if for the words "fifteen thousand rupees", the words "eighteen thousand rupees" had been substituted.

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 clause (i) or clause (ia), as the case may be.'

Section 8 - Amendment Of Section 17

In section 17 of the Income-tax Act, in sub-clause (3), in sub-clause (ii), for the words "interest on such contributions.", the following shall be substituted with effect from the 1st day of October, 1996, namely :-

'interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation : For the purposes of this sub-clause, the expression "Keyman insurance policy" shall have the meaning assigned to in clause (10D) of section 10.'.

Section 9 - Amendment Of Section 24

In section 24 of the Income-tax Act, in sub-section (2), in the proviso, -

(a) for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1997;

(b) after the words, brackets, figures and letters "sub-clause (i) of clause (a) of sub-section (2) of section 23", the words brackets and figures "or sub-section (3) of section 23" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1995.

Section 10 - Amendment Of Section 28

In section 28 of the Income-tax Act, after clause (v), the following clause shall be inserted with effect from the 1st day of October, 1996, namely :-

'(vi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation : For the purposes of this clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10;'.

Section 11 - Amendment Of Section 32

In section 32 of the Income-tax Act, with effect from the 1st day of April, 1997, -

(a) in sub-section (1), after the words "plant or furniture owned", the words, "wholly or party," shall be inserted;

(b) in sub-section (1), after the third proviso, the following proviso shall be inserted, namely :-

"Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture allowable to the predecessor and the successor in the case of succession, referred to in section 170 or the amalgamating company and the amalgamated company in the case of amalgamation, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, as the case may be, in the ratio of the number of days for which the assets were used by them.";

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

'(2) Where in the assessment of the assessee full effect cannot be given to any allowance under clause (ii) of sub-section (1) in any previous year owing to there being no profits or gains chargeable for that previous year or owing to the profits or gains being less than the allowance, then, the allowance or the part of allowance to which effect has not been given (hereinafter referred to as unabsorbed depreciation allowance), as the case may be, -

(i) shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year;

(ia) if the unabsorbed depreciation allowance cannot be wholly set off under clause (i), the amount not so set off shall be set off from the income under any other head, if any, assessable for that assessment year;

(ii) if the unabsorbed depreciation allowance cannot be wholly set off under clause (i) and clause (ia), the amount of allowance not so set off shall be carried forward to the following assessment year and -

(a) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year;

(b) if the unabsorbed depreciation allowance cannot be wholly so set off, the amount of unabsorbed depreciation allowance not so set off shall be carried forward to the following assessment year not being more than eight assessment years immediately succeeding the assessment year for which the aforesaid allowance was first computed :

Provided that the business or profession for which the allowance was originally computed continued to be carried on by him in the previous year relevant for that assessment year :

Provided further that the time limit of eight assessment years specified in sub-clause (b) shall not apply in the case of a company for the assessment year beginning with the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and ending with the assessment year relevant to the previous year in 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 12 - Amendment Of Section 35

In section 35 of the Income-tax Act, in sub-section (2AA), for the provisos, the following proviso shall be substituted with effect from the 1st day of October, 1996, namely :-

"Provided that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the Director General in such form as may be prescribed.".

Section 13 - Amendment Of Section 35AC

In section 35AC of the Income-tax Act, after sub-section (3) and before the Explanation, the following sub-sections shall be inserted with effect from the 1st day of October, 1996, namely :-

"(4) Where an association or institution is approved by the National Committee under sub-section (1), and subsequently that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted, it may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval.

(5) Where any project or scheme has been notified as an eligible project or scheme under clause (b) of the Explanation and subsequently the National Committee is satisfied that the project or the scheme is not being carried out in accordance with all or any of the conditions subject to which such project or scheme was notified, such notification may be withdrawn in the same manner in which it was issued :

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or the local authority, as the case may be."

Section 14 - Amendment Of Section 36

In section 36 of the Income-tax Act, in sub-section (1), in clause (viii), -

(a) for the words "before making any deduction under this section", the words "before making any deduction under this clause" shall be substituted and shall be deemed to have been substituted;

(aa) in the section proviso, for the words "(excluding the amounts capitalised from reserves)", the words "and general reserves" shall be substituted with effect from the 1st day of April, 1997;

(b) in the Explanation, after clause (d), the following clause shall be inserted and shall be deemed to have been inserted, namely :-

'(e) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years.'.

Section 15 - Amendment Of Section 40A

In section 40A of the Income-tax Act, in sub-section (3), for the words "ten thousand" wherever they occur, the words "twenty thousand" shall be substituted with effect from the 1st day April, 1997.

Section 16 - Amendment Of Section 41

In section 41 of the Income-tax Act, the Explanation occurring below sub-section (1) shall be renumbered as Explanation 2, and before Explanation 2 as so renumbered, the following Explanation shall be inserted with effect from the 1st day of April, 1997, namely :-

'Explanation 1 : For the purposes of this sub-section, the expression "loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof" shall include the remission or cessation of any liability by a unilateral act by the first mentioned person under clause (a) of the successor in business under clause (b) of that sub-section by way of writing off such liability in his accounts.'.

Section 17 - Amendment Of Section 43

In section 43 of the Income-tax Act, in clause (1), after Explanation 4, the following Explanation shall be inserted with effect from the 1st day of October, 1996, namely :-

"Explanation 4A : Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in Explanation 3, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person.".

Section 18 - Amendment Of Section 43B

In section 43B of the Income-tax Act, with effect from the 1st day of April, 1997, -

(a) in clause (d), for the words "governing such loan or borrowing," the words "governing such loan or borrowing; or" shall be substituted;

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

"(e) any sum payable by the assessee as interest on any term loan from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan.";

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

"Explanation 3A : For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (e) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1996, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.".

(d) in Explanation 4, after clause (a), the following clause shall be inserted, namely :-

'(aa) "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (viia) of sub-section (1) of section 36;'.

Section 19 - Amendment Of Section 45

In section 45 of the Income-tax Act, in sub-section (1), after the figures and letter "54E,", the figures and letters "54EA, 54EB," shall be inserted with effect from the 1st day of October, 1996.

Section 20 - Insertion Of New ections 54EA And 54EB

After section 54E of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of October, 1996, namely :-

'54EA. Capital gain on transfer of long-term capital assets not to be charged in the case of investment in specified bonds or debentures. - (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of the net consideration in any of the bonds, debentures or units of any mutual fund referred to in clause (23D) of section 10, specified by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the specified bonds or debentures), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say, -

(a) if the cost of the specified bonds or debentures is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the specified bonds or debentures is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the specified bonds or debentures bears to the net consideration shall not be charged under section 45.

(2) Where the specified bonds or debentures are transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost such specified bonds or debentures as provided in clause (a) or clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which the specified bonds or debentures are transferred or converted (otherwise than by transfer) into money.

Explanation : In a case where the original asset is transferred and the assessee invests the whole or any part of the net consideration in respect of the original asset in any specified bonds or debentures and such assessee takes any loan or advance on the security of such specified bonds or debentures, he shall be deemed to have converted (otherwise than by transfer) such specified bonds or debentures into money on the date on which such loan or advance is taken.

(3) Where the cost of the specified bonds or debentures has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a rebate with reference to such cost shall not be allowed under section 88.

Explanation : For the purposes of this section, -

(a) "cost", in relation to any specified bonds or debentures, means the amount invested in such specified bonds or debentures out of the net consideration received or accruing as a result of the transfer of the original asset;

(b) "net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by the expenditure incurred wholly and exclusively in connection with such transfer.

54EB. Capital gain on transfer of long-term capital assets not to be charged in certain cases. - (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, at any time within a period of six months after the date of such transfer invested the whole or any part of capital gains, in any of the assets specified by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the long-term specified asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say, -

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45.

Explanation : "Cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset.

(2) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of seven years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a), or as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money.

Explanation : In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(3) Where the cost of the long-term specified asset has been taken into account for purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.'.

Section 21 - Amendment Of Section 56

In section 56, in sub-section (2), after clause (iii), the following clause shall be inserted with effect from the 1st day of October, 1996, namely :-

'(iv) income referred to in sub-clause (xi) 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" or under the head "Salaries".'.

Section 22 - Omission Of Section 80CC

Section 80CC of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1993.

Section 23 - Insertion Of Section 80CCC

After section 80CCB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1997, namely :-

"80CCC. Deduction in respect of contribution to certain pension funds. - (1) Where an assessee being an individual has in the previous year paid or deposited any amount out of his income chargeable to tax to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India for receiving pension from the fund referred to in clause (23AAB) of section 10, 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 the whole of the amount paid or deposited (excluding interest or bonus accrued or credited to the assessee's account, if any) as does not exceed the amount of ten thousand rupees in the previous year.

(2) Where any amount standing to the credit of the assessee in a fund, referred to in sub-section (1) in respect of which a deduction has been allowed under sub-section (1), together with the interest or bonus accrued or credited to the assessee's account, if any, is received by the assessee or his nominee -

(a) on account of the surrender of the annuity plan whether in whole or in part, in any previous year, or

(b) as pension received from the annuity plan,

an amount equal to the whole of the amount referred to in clause (a) or clause (b) shall be deemed to be the income of the assessee or his nominee, as the case may be, in that previous year in which such withdrawal is made or, as the case may be, pension is received, and shall accordingly be chargeable to tax as income of that previous year.

(3) Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section, a rebate with reference to such amount shall not be allowed under section 88.".

Section 24 - Amendment Of Section 80D

In section 80D of the Income-tax Act, in sub-section (1), for the words "six thousand rupees" wherever they occur, the words "ten thousand rupees" shall be substituted with effect from the 1st day of April, 1997.

Section 25 - Insertion Of New Section 80DDB

After section 80DDA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1997, namely :-

'80DDB. Deduction in respect of medical treatment, etc. - Where an assessee who is resident in India has, during the previous year, incurred any expenditure for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board -

(a) for himself or a dependent relative, in case the assessee is an individual; or

(b) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family,

the assessee shall be allowed a deduction of a sum of fifteen thousand rupees in respect of that previous year in which such expenditure was incurred :

Provided that no deduction shall be allowed unless the assessee furnishes a certificate in such form and from such authority as may be prescribed.

Explanation : For the purposes of this section, "dependant" means a person who is not dependant for his support or maintenance on any person other than the assessee.'.

Section 26 - Amendment Of Section 80G

In section 80G of the Income-tax Act, with effect from the 1st day of April, 1997, -

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letter "sub-clause (iiih) or", the words, brackets, figures and letters "sub-clause (iiiha) or sub-clause (iiihb) or sub-clause (iiihc) or" shall be inserted;

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

'(iiiha) the National Blood Transfusion Council or to any State Blood Transfusion Council which has its sole object the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks.

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

(a) "National Blood Transfusion Council" means a society registered under the Societies Registration Act, 1860 (21 of 1860) and has an officer not below the rank of an Additional Secretary to the Government of India dealing with the AIDS Control Project as its Chairman, by whatever name called;

(b) "State Blood Transfusion Council" means a society registered, in consultation with the National Blood Transfusion Council, under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India and has Secretary to the Government of that State dealing with the Department of Health, as its Chairman, by whatever named called; or

(iiihb) any fund set up by a State Government to provide medical relief to the poor; or

(iiihc) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants; or'.

Section 27 - Amendment Of Section 80GG

In section 80GG of the Income-tax Act, for the words "one thousand rupees", the words "two thousand rupees" shall be substituted with effect from the 1st day of April, 1997.

Section 28 - Amendment Of Section 80-IA

In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 1997, -

(a) in sub-section (1), after the words "infrastructure facility", the words "or scientific and industrial research and development" shall be inserted;

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

"(4B) This section applies to any company registered in India carrying on scientific and industrial research and development which fulfils all the following conditions, namely :-

(i) the company has the main object of scientific and industrial research and development;

(ii) the company is for the time being approved by the prescribed authority at any time before the 1st day of April, 1998.";

(c) in sub-section (5), after clause (ia), the following clause shall be inserted, namely :-

"(ib) in the case of a company referred to in sub-section (4B), hundred per cent. of the profits and gains derived from such business;";

(d) in sub-section (6), after clause (iv), the following clause shall be inserted, namely :-

"(v) five in the case of an assessee, being a company referred to in sub-section (4B), deriving profits and gains from scientific and industrial research and development.";

(e) in sub-section (12), -

(i) in clause (c), after sub-clause (2), the following sub-clause shall be inserted, namely :-

"(3) in the case of a company carrying on scientific and industrial research and development, means the assessment year relevant to the previous year in which the company is approved by the prescribed authority for the purposes of sub-section (4B);";

(ii) for clause (ca), the following clause shall be substituted, namely :-

'(ca) "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;

(ii) a water supply project, irrigation project, sanitation and sewerage system;'.

Section 29 - Omission Of Section 80J

Section 80J of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Section 30 - Amendment Of Section 80L

In section 80L of the Income-tax Act, in sub-section (1), with effect from 1st day of April, 1997, -

(a) in clauses (1) and (2), for the words "thirteen thousand", the words "twelve thousand" shall be substituted;

(b) after clause (2), the following proviso shall be inserted, namely :-

"Provided that where any income referred in clause (iv), clause (v) or clause (va) remains unallowed after the deduction under the foregoing provision of this section, there shall be allowed in computing the total income of the assessee, an additional deduction of an amount equal to so much of such income as has remained unallowed; so, however, that the amount of such additional deduction shall not exceed three thousand rupees."

Section 31 - Amendment Of Section 80R

In section 80R of the Income-tax Act, for the portion beginning with the words "equal to" and ending with the words "whichever is higher", the following shall be substituted with effect from the 1st day of April, 1997, namely :-

"equal to seventy-five per cent. of such remuneration, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or where the Chief Commissioner or 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 Chief Commissioner or Commissioner may allow in this behalf :

Provided that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section."

Section 32 - Amendment Of Section 80RR

In section 80RR of the Income-tax Act, for the portion beginning with the words "equal to" and ending with the words "whichever is higher", the following shall be substituted with effect from the 1st day of April, 1997, namely :-

"equal to seventy-five per cent. of such income, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or where the Chief Commissioner or 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 Chief Commissioner or Commissioner may allow in this behalf :

Provided that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section."

Section 33 - Amendment Of Section 80RRA

In section 80RRA of the Income-tax Act, in sub-section (1), for the portion beginning with the words "equal to" and ending with the words "whichever is higher" the following shall be substituted with effect from the 1st day of April, 1997, namely :-

"equal to seventy-five per cent. of such remuneration, as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year or where the Chief Commissioner or 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 Chief Commissioner or Commissioner may allow in this behalf :

Provided that no deduction under this sub-section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section."

Section 34 - Amendment Of Section 88

In section 88 of the Income-tax Act, with effect from the 1st day of April, 1997, -

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

'(xvi) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company in the prescribed form :

Provided that where a deduction is claimed and allowed under this clause with reference to the cost of any equity shares or debentures, the cost of such shares or debentures shall not be taken into account for the purposes of sections 54EA and 54EB.

Explanation : For the purposes of this clause, -

(i) "eligible issue of capital" means an issue made by a public company formed and registered in India and the issue is wholly and exclusively for the purposes of developing, maintaining and operating an infrastructure facility or for generating, or for generating and distributing, power;

(ii) "infrastructure facility" shall have the meaning assigned to it in clause (ca) of sub-section (12) of section 80-IA;

(iii) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(xvii) as subscription to any units of any mutual fund referred to in clause (23D) of section 10 and approved by the Board on an application made by such mutual fund in the prescribed form :

Provided that where a deduction is claimed and allowed under this clause with reference to the cost units, the cost of such units shall not be taken into account for the purposes of sections 54EA and 54EB :

Provided further that this clause shall apply if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Explanation : For the purposes of this clause, -

"eligible issue of capital" means an issue referred to in clause (i) of Explanation to clause (xvi) in sub-section (2) of section 88.'.

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

'(5A) Where the aggregate of any sums specified in clause (i) to clause (xv) of sub-section (2) exceeds an amount of sixty 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 sixty thousand rupees :

Provided that in the case of an individual referred to in the proviso to sub-section (1), the provisions of this sub-section shall have effect as if for the words "sixty thousand rupees", the words "seventy thousand rupees" had been substituted.'.

(c) in sub-section (6), in clause (ii), for the words "twelve thousand rupees", the words "fourteen thousand rupees" shall be substituted;

(d) after sub-section (7), the following sub-section shall be inserted, namely :-

"(7A) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1) are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income-tax so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be tax payable by the assessee for the assessment year relevant to such previous year and shall be added to the amount of income-tax on the total income of the assessee with which he is chargeable for such assessment year.

Explanation : A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.".

Section 35 - Omission Of Section 88A

Section 88A of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1994.

Section 36 - Amendment Of Section 88B

In section 88B of the Income-tax Act, for the words "one hundred thousand rupees", the words "one hundred and twenty thousand rupees" shall be substituted with effect from the 1st day of April, 1997.

Section 37 - Amendment Of Section 112

In section 112 of the Income-tax Act, in sub-section (1) with effect from the 1st day of April, 1997, -

(a) in clause (b), in sub-clause (ii), for the words "thirty per cent.", the words "twenty per cent.", shall be substituted;

(b) in clause (d), in sub-clause (ii), for the words "thirty per cent.", the words "twenty per cent.", shall be substituted.

Section 38 - Amendment Of Section 115AC

In section 115AC of the Income-tax Act, in sub-section (1), in clause (a), after the words "specify in this behalf", the words "or on bonds or shares of a public sector company, sold by the Government" shall be inserted with effect from the 1st day of October, 1996.

Section 39 - Insertion Of New Section 115JA

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

'115JA. Deemed income relating to certain companies. -

(1) Notwithstanding anything contained in any other provisions of this Act, where in the case of an assessee, being a company, the total income, as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 (hereafter in this section referred to as the relevant previous year) is less than thirty per cent. of its book profit, the total income of such assessee chargeable to tax for the relevant previous year shall be deemed to be an amount equal to thirty per cent. of such book profit.

(2) Every assessee, being a company, shall, for the purposes of this section prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 (1 of 1956) :

Provided that while preparing profit and loss account, the depreciation shall be calculated on the same method and rates which have been adopted for calculating the depreciation for the purpose of preparing the profit and loss account laid before the company at its annual general meeting in accordance with the provisions of section 210 of the Companies Act, 1956 (1 of 1956) :

Provided further that where a company has adopted or adopts the financial year under the Companies Act, 1956 (1 of 1956) which is different from the previous year under the Act, the method and rates for calculation of depreciation shall correspond to the method and rates which have been adopted for calculating the depreciation for such financial year or part of such financial year falling within the relevant previous year.

Explanation : For the purposes of this section, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (2), as increased by -

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

(b) the amounts carried to any reserves by whatever name called; or

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

(d) the amount by way of provision for losses of subsidiary companies; or

(e) the amount or amounts of dividends paid or proposed; or

(f) the amount or amounts of expenditure relatable to any income to which any of the provisions of Chapter III applies;

if any amount referred to in clauses (a) to (f) is debited to the profit and loss account, and as reduced by, -

(i) the amount withdrawn from any reserves or provisions if any such amount is credited to the profit and loss account :

Provided that, where this section is application to an assessee in any previous year (including the relevant previous year), the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this Explanation; or

(ii) the amount of income to which any of the provisions of Chapter III applies, if any such amount is credited to the profit and loss account; or

(iii) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.

Explanation : For the purposes of this clause, the loss shall not include depreciation; or

(iv) the amount of profits derived by an industrial undertaking from the business of generation or generation and distribution of power; or

(v) the amount of profits derived by an industrial undertaking located in an industrially backward State or district as referred to in sub-clause (b) or sub-clause (c) of clause (iv) of sub-section (2) of section 80-IA, for the assessment years such industrial undertaking is eligible to claim a deduction of hundred per cent. of the profits and gains under sub-section (5) of section 80-IA; or

(vi) the amount of profits derived by an industrial undertaking from the business of developing, maintaining and operating any infrastructure facility as defined under sub-section (12) of section 80-IA, and subject to fulfilling the conditions laid down in sub-section (4A) of section 80-IA; or

(vii) the amount of profits of sick industrial company for the assessment year commencing from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and ending with the assessment 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) section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986).(3) Nothing contained in sub-section (1) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (2) of section 32 or sub-section

(3) of section 32A or clause (ii) of sub-section (1) of section 72 or section 73 or section 74 or sub-section (3) of section 74A.

(4) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.'.

Section 40 - Amendment Of Section 115K

In section 115K of the Income-tax Act, with effect from the 1st day of April, 1997, -

(a) for the words "forty-seven thousand rupees" wherever they occur, the words "forty-nine thousand three hundred and thirty rupees" shall be substituted;

(b) for the words "six lakh rupees", at both the places where they occur, the words "seven lakh rupees" shall be substituted.

Section 41 - Amendment Of Section 120

In section 120 of the Income-tax Act, in sub-section (4), in clause (b), for the words "a Deputy Commissioner" and "such Deputy Commissioner", the words "a Deputy Commissioner or a Deputy Director" and "such Deputy Commissioner or Deputy Director" shall respectively be 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), with effect from the 1st day of April, 1997, -

(a) the Explanation shall be renumbered as Explanation 1 and in the Explanation 1 as so renumbered, in clause (b), for sub-clause (i), the following sub-clause shall be substituted, namely :-

"(i) in a case where the accounts of the assessee are required under this Act or any other law to be audited or where the report of an accountant is required to be furnished under section 80HHC or section 80HHD or where the prescribed certificate is required to be furnished under section 80R or section 80RR or sub-section (1) of section 80RRA, or in the case of a co-operative society or in the case of a working partner of a firm whose accounts are required under this Act or any other law to be audited, the 31st day of October of the assessment year;";

(b) after Explanation 1 as so renumbered, the following Explanation shall be inserted, namely :-

Explanation 2 : For the purposes of sub-clause (i) of clause (b) of Explanation 1, the expression "working partner" shall have the meaning assigned to it in Explanation 4 of clause (b) of section 40.'.

Section 43 - Amendment Of Section 148

In section 148 of the Income-tax Act, in sub-section (1), the words "not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

Section 44 - Amendment Of Section 53

In section 153 of the Income-tax Act, in Explanation 1, in clause (iii), for the words "the date on which the assessee furnishes", the words "the last date on which the assessee is required to furnish" shall be substituted with effect from the 1st day of April, 1997.

Section 45 - Amendment Of Section 158B

In section 158B of the Income-tax Act, in clause (a), for the words "period of ten previous years", the words "previous years relevant to ten assessment years" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1995.

Section 46 - Amendment Of Section 158BB

In section 158BB of the Income-tax Act, in sub-section (1), in the Explanation, for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1995, namely :-

"(b) of a firm, returned income and total income assessed for each of the previous years falling within the block period shall be income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called :

Provided that undisclosed income of the firm so determined shall not be chargeable to tax in the hands of the partners, whether on allocation or on account of enhancement."

Section 47 - Amendment Of Section 158BE

In section 158BE 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 July, 1995, namely :-

"Explanation : In computing the period of limitation for the purposes of this section, the period -

(i) during which the assessment proceeding is stayed by an order or injunction of any court, or

(ii) commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section,

shall be excluded.".

Section 48 - Amendment Of Section 158BG

In section 158BG of the Income-tax Act, for the proviso, the following proviso shall be substituted with effect from the 1st day of October, 1996, namely :-

"Provided that no such order shall be passed without the previous approval of the Commissioner or Director, as the case may be."

Section 49 - Amendment Of Section 194A

In section 194A of the Income-tax Act, in sub-section (3), in clause (i), for the proviso, the following proviso shall be substituted with effect from the 1st day of October, 1996, namely :-

"Provided that in respect of the income credited or paid in respect of -

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is 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 and which is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36,

the provisions of this clause shall have effect as if for the words "two thousand five hundred rupees", the words "ten thousand rupees" had been substituted and the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be;".

Section 50 - Amendment Of Section 199

In section 199 of the Income-tax Act, with effect from the 1st day of April, 1997, -

(i) for the words "owner of the security", the words "owner of the security, or depositor or owner of property or of unit-holder" shall be substituted;

(ii) in the first proviso, for the word "owner", the words "owner or depositor or unit-holder" shall be substituted;

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

"Provided further that where any property, deposit, security, unit or share is owned jointly by two or more persons not constituting a partnership, the payment shall be deemed to have been made on behalf of, and credit shall be given to, each such person in the same proportion in which rent, interest on deposit or on security or income in respect of unit or dividend on share is assessable as his income."

Section 51 - Omission Of Sections 206A And 206B

Sections 206A and 206B of the Income-tax Act shall be omitted with effect from the 1st day of October, 1996.

Section 52 - Amendment Of Section 206C

In section 206C of the Income-tax Act, in sub-section (1), for the Table, the following Table shall be substituted with effect from the 1st day of October, 1996, namely: -

TABLE

S. No.	Nature of Goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption (other than Indian-made foreign liquor) and tendu leaves	Ten per cent.
(ii)	Timber obtained under a forest lease	Fifteen per cent.
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent.
(iv)	Any other forest produce not being timber or tendu leaves	Fifteen per cent.

Section 53 - Amendment Of Section 208

In section 208 of the Income-tax Act, for the words "one thousand five hundred rupees", the words "five thousand rupees" shall be substituted with effect from the 1st of October, 1996.

Section 54 - Amendment Of Section 234C

In section 234C of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1997, -

(a) in the first proviso, for the words "instalment of advance tax which is immediately due or where no such instalment is so due", the words "remaining instalments of advance tax which are due or where no such instalments are due" shall be substituted;

(b) the second proviso shall be omitted.

Section 55 - Amendment Of Section 272A

In section 272A of the Income-tax Act, in sub-section (2), in clause (c), the words, figures and letters "or section 206A or section 206B" shall be omitted with effect from the 1st day of October, 1996.

Section 56 - Amendment Of Section 2

In section 2 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), in clause (ea), for sub-clause (i), the following sub-clause shall be substituted with effect from the 1st day of April, 1997, namely :-

(i) any building or land appurtenant thereto (hereinafter referred to as "house"), whether used for residential or commercial purposes or for the purpose of maintaining a guest-house or otherwise including a farmhouse situated within twenty-five kilometers from local limits of any municipality (whether known as municipality, municipal corporation or by any other name) or a cantonment board, but does not include -

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or director who is in whole-time employment, having a gross annual salary of less than two lakh rupees;

(2) any house for residential or commercial purposes which forms part of sk-in-trade;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;'.

Section 57 - Amendment Of Section 4

In section 4 of the Wealth-tax Act, with effect from the 1st day of April, 1997, for sub-section (7), the following sub-sections shall be substituted, namely :-

"(7) Where the assessee is a member of a co-operative society, company or other association of persons and a building or part thereof is allotted or leased to him under a house building scheme of the society, company or association, as the case may be, the assessee shall, notwithstanding anything contained in this Act or any other law for the time being in force, be deemed to be the owner of such building or part and the value of such building or part, shall be included in computing the net wealth of the assessee; and, in determining the value of such building or part, the value of any outstanding instalments of the amount payable under such scheme by the assessee to the society, company or association towards the cost of such building or part and the land appurtenant thereto shall, whether the amount so payable is described as such or in any other manner in such scheme, be deducted as a debt owed by him in relation to such building or part.

(8) A person -

(a) 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);

(b) 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 of the Income-tax Act, 1961 (43 of 1961),

shall be deemed to be the owner of that building or part thereof and the value of such building or part shall be included in computing the net wealth of such person.".

Section 58 - Amendment Of Section 21A

In section 21A of the Wealth-tax Act, for the words "Where any property is held", the words, brackets and figures "Notwithstanding anything contained in clause (i) of section 5, where any property is held" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1993.

Section 90 - Repeal

Section 2 of the Finance Act, 1996 (5 of 1996) is hereby repealed and shall be deemed never to have been enacted.