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Finance Act, 1995

Chapter III - Direct Taxes

Section 3 - Amendment of Section 2

In section 2 of the Income-tax Act, in clause (42A), in Explanation 1, in clause (i), after sub-clause (e), the following sub-clause shall be inserted, with effect from the 1st day of April, 1996, namely :-

"(f) in the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset;"

Section 4 - Amendment of Section 10

In section 10 of the Income-tax Act, -

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

(2) in clause (14), with effect from the 1st day of July, 1995, -

(a) in sub-clause (i), for the words "as the Central Government may, by notification in the Official Gazette, specify", the words "as may be prescribed" shall be substituted;

(b) in sub-clause (ii), for the words "as the Central Government may, by notification in the Official Gazette, specify, to the extent specify, to the extent specified in the notification", the words "as may be prescribed and to the extent as may be prescribed" shall be substituted;

(3) in clause (15), for sub-clause (v), the following sub-clause shall be substituted, namely :-

'(v) interest on -

(a) securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank's SGL Account No. SL/DH048;

(b) deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account, with the Reserve Bank of India or with a public sector bank, as the Central Government may, by notification in the Official Gazette, specify, whether prospectively or retrospectively, but in no case earlier than the 1st day of April, 1994, in this behalf.

Explanation : For the purposes of this sub-clause, the expression "public sector bank" shall have the meaning assigned to it in the Explanation to clause (23D);';

(4) for clause (15A), the following clause shall be substituted with effect from the 1st day of April, 1996, namely :-

'(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the Government of a foreign State or a foreign enterprise under an agreement approved by the Central Government in this behalf.

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

(5) after clause (23AA), the following clause shall be inserted, with effect from the 1st day of April, 1996, namely :-

"(23AAA) any income received by any person on behalf of a fund established, for such purposes as may be notified by the Board in the Official Gazette, for the welfare of employees or their dependants and of which fund such employees are members if such fund fulfils the following conditions, namely :-

(a) the fund -

(i) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(ii) invests its funds and contributions and other sums received by it in the forms or modes specified in sub-section (5) of section 11;

(b) the fund is approved by the Commissioner in accordance with rules made in this behalf :

Provided that any such approval shall at any one time have effect for such assessment year or years not exceeding three assessment years as may be specified in the order of approval;";

(6) in clause (23D), for the portion beginning with the words "any income of such Mutual Fund" and ending with the words "specify in this behalf", the following shall be substituted with effect from the 1st day of July, 1995, namely :-

"any income of -

(i) a Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992), or regulations made thereunder;

(ii) such other Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf";

(7) after clause (23E), the following clause shall be inserted with effect from the 1st day of April, 1996, namely :-

"(23F) any income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

Provided that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority in accordance with the rules made in this behalf and satisfies the prescribed conditions :

Provided further that any approval by the prescribed authority shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval :

Provided also that if the aforesaid equity shares are transferred (other than in the event of the said shares being listed in a recognised stock exchange in India) by a venture capital fund or a venture capital company to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of income by way of dividends on such equity shares which has not been included in the total income of the previous year or years preceding the previous year in which such transfer has taken place shall be deemed to be the income of the venture capital fund or of the venture capital company of the previous year in which such transfer has taken place :

Provided also that the exemption shall not be allowed in respect of the long-term capital gains, if any, arising on such transfer of equity shares as is mentioned in the third proviso.

Explanation : For the purposes of this clause, -

(a) "venture 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 investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(b) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and

(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf.";

(8) after clause (25), the following clause shall be inserted and shall be deemed always to have been inserted with effect from the 1st day of April, 1962, namely :-

"(25A) any income of the Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);";

(9) after clause (26B), the following clause shall be inserted, namely :-

'(26BB) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

Explanation : For the purposes of this clause, "minority community" means a community notified as such by the Central Government in the Official Gazette in this behalf;'.

Section 5 - Amendment of Section 10A

In section 10A of the Income-tax Act, in sub-section (2), after clause (i), the following clause shall be inserted with effect from the 1st day of April, 1996, namely :-

"(ia) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day of April, 1995, its exports of such articles or things are not less than seventy-five per cent of the total sales thereof during the previous year;".

Section 6 - Amendment of Section 17

In section 17 of the Income-tax Act, in clause (3), in sub-clause (ii), with effect from the 1st day of April, 1996, -

(a) after the word, brackets and figures "clause (12)", the words, brackets and figures ", clause (13)" shall be inserted;

(b) the brackets and words "(not being an approved superannuation fund)" shall be omitted.

Section 7 - Amendment of Section 32

In section 32 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1996, -

(a) the first proviso shall be omitted;

(b) in the second proviso, the word "further" shall be omitted;

(c) in the third proviso, for the word "also", the word "further" shall be substituted.

Section 8 - Amendment of Section 33AC

In section 33AC of the Income-tax Act, in sub-section (1), for the portion beginning with the words "In the case of an assessee" and ending with the words, brackets and figure "manner laid down in sub-section (2) :", the following shall be substituted with effect from the 1st day of April, 1996, namely :-

'In the case of an assessee, being a Government company or a public company formed and registered in India with the main object of carring on the business of operation of ships, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount not exceeding fifty per cent of profits derived from the business of operation of ships (computed under the head "Profits and gains of business or profession" and before making any deduction under this section), as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account, to be utilised in the manner laid down in sub-section (2) :'.

Section 9 - Amendment of Section 35CCA

In section 35CCA of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1996, -

(a) in clause (c), for the word "behalf,", the words "behalf; or" shall be substituted;

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

"(d) to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf,".

Section 10 - Amendment of Section 36

In section 36 of the Income-tax Act, in sub-section (1), in clause (viii), with effect from the 1st day of April, 1996, -

(a) for the portion beginning with the words "industrial or agricultural development in India" and ending with the words "such reserve account", the following shall be substituted, namely :-

'industrial or agricultural development or development of infrastructure facility in India or by a 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, an amount not exceeding forty per cent. of the profits derived from such business of providing long-term finance (computed under the head "Profits and gains of business or profession" before making any deduction under this section) carried to such reserve account :';

(b) in the Explanation, after clause (c), the following clause shall be inserted, namely :-

'(d) "infrastructure facility" shall have the meaning assigned to it in section 80-IA.'.

Section 11 - Amendment of Section 40A

In section 40A of the Income-tax Act, in sub-section (3), for the words "such expenditure shall not be allowed as a deduction", the words "twenty per cent. of such expenditure shall not be allowed as a deduction" shall be substituted with effect from the 1st day of April, 1996.

Section 12 - Amendment of Section 43

In section 43 of the Income-tax Act, in clause (3), after the words "business or profession", the words "but does not include tea bushes or livestock" shall be inserted and shall be deemed always to have been inserted with effect from the 1st day of April, 1962.

Section 13 - Amendment of Section 44AB

In section 44AB of the Income-tax Act, with effect from the 1st day of July, 1995, -

(a) for the words "obtain before", the words "furnish by" shall be substituted;

(b) in the first proviso, the words, figures and letters "section 44AC or" shall be omitted;

(c) in the second proviso, for the words "obtains before", the words "furnishes by" shall be substituted.

Section 14 - Amendment of Section 55

In section 55 of the Income-tax Act, in sub-section (2), in clause (aa), with effect from the 1st of April, 1996, -

(i) for the portion beginning with the words "in a case where" and ending with the words, brackets, figures and letter "sub-clauses (i) and (ii) of clause (b)", the following shall be substituted, namely :-

"in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956 (hereafter in this clause referred to as the financial asset), the assessee -

(A) becomes entitled to subscribe to any additional financial asset; or

(B) is allotted any additional financial asset without any payment,

then, subject to the provisions of sub-clauses (i) and (ii) of clause (b)";

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

"(iiia) in relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be nil in the case of such assessee;".

Section 15 - Insertion of New Section 80DDA

After section 80DD of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 1996, namely :-

'80DDA. Deduction in respect of deposit made for maintenance of handicapped dependant. - (1) In computing the total income of an assessee who is resident in India, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, an amount not exceeding twenty thousand rupees paid or deposited by him in the previous year, out of his income chargeable to tax, under any scheme framed in this behalf by the Life Insurance Corporation or the Unit Trust of India subject to the conditions specified in sub-section (2) and approved by the Board in this behalf.

(2) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :-

(a) the scheme referred to in sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a handicapped dependant in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

(b) the assessee nominates either the handicapped dependant or any other person or a trust to receive the payment on his behalf, for the benefit of the handicapped dependant.

(3) If the handicapped dependant predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) In this section, -

(a) "Government hospital" shall have the meaning assigned to it in the Explanation to section 80DD;

(b) "handicapped dependant" shall mean a person who -

(i) is a relative of the individual or, as the case may be, is a member of the Hindu undivided family and is not dependant on any person other than such individual or Hindu undivided family for his support or maintenance; and

(ii) is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a permanent physical disability or mental retardation specified in the rules made by the Board for the purposes of section 80DD, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such person's capacity for normal work or engaging in a gainful employment or occupation;

(c) "Life Insurance Corporation" shall have the same meaning as in clause (iii) of sub-section (8) of section 88;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).'.

Section 16 - Amendment of Section 80G

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

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letter "sub-clause (iiig) or", the words, brackets, figures and letter "sub-clause (iiih) or" shall be inserted with effect from the 1st day of April, 1996;

(b) in sub-section (2), in clause (a), -

(i) after sub-clause (iiig), the following sub-clause shall be inserted with effect from the 1st day of April, 1996, namely :-

'(iiih) any Zila Saksharta Samiti constituted in any district under the Chairmanship of the Collector of that district for the purposes of improvement of primary education in villages and towns in such district and for literacy and post-literacy activities.

Explanation : For the purposes of this sub-clause, "town" means a town which has a population not exceeding one lakh according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or';

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

"(via) any corporation referred to in clause (26BB) of section 10; or";

(c) in sub-section (4), for the brackets, figures and word "(vi) and (vii)", the brackets, figures, letter and word "(vi), (via) and (vii)" shall be substituted.

Section 17 - Amendment of Section 80GGA

In section 80GGA of the Income-tax Act, in sub-section (2), after clause (d), the following clause shall be inserted with effect from the 1st day of April, 1996, namely :-

"(e) any sum paid by the assessee in the previous year to the National Urban Poverty Eradication Fund set up and notified by the Central Government for the purposes of clause (d) of sub-section (1) of section 35CCA.".

Section 18 - Amendment of Section 80HHE

In section 80HHE of the Income-tax Act, in sub-section (1), the proviso shall be omitted with effect from the 1st day of April, 1996.

Section 19 - Amendment of Section 80-IA

In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 1996, -

(a) in sub-section (1), for the words and brackets "operation of a ship (such business being hereinafter referred to as the eligible business)", the words and brackets "operation of a ship or developing, maintaining and operating any infrastructure facility (such business being hereinafter referred to as the eligible business)" shall be substituted;

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

"(d) in the case of an industrial undertaking being a small scale industrial undertaking, not specified in sub-clause (b) or in sub-clause (c), it begins to manufacture or produce articles or things or to operate its cold storage plant at any time during the period beginning on the 1st day of April, 1995, and ending on the 31st day of March, 2000;";

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

"(4A) This section applies to any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility which fulfils all the following conditions, namely :-

(i) the enterprise is owned by a company registered in India or by a consortium of such companies;

(ii) the enterprise has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing, maintaining and operating a new infrastructure facility subject to the condition that such infrastructure facility shall be transferred to the Central Government, State Government, local authority or such other statutory body, as the case may be, within the period stipulated in the agreement;

(iii) the enterprise starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995.";

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

(i) in clause (i), in sub-clause (a), after the words, brackets and letter "sub-clause (a)", the words, brackets and letter "or sub-clause (d)" shall be inserted;

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

"(ia) in the case of an enterprise referred to in sub-section (4A), hundred per cent. of the profits and gains derived from such business for the initial five assessment years and thereafter, thirty per cent. of such profits and gains;";

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

"(iv) any ten consecutive assessment years falling within a period of twelve assessment years beginning with the assessment year in which an assessee begins operating and maintaining infrastructure facility.";

(f) in sub-section (12) -

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

'(c) "initial assessment year", -

(1) in the case of an industrial undertaking or cold storage plant or ship or hotel, means the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning;

(2) in the case of an enterprise, carrying on the business of developing, operating and maintaining any infrastructure facility, means the assessment year specified by the assessee at his option to be the initial year, not falling beyond the twelfth assessment year starting from the previous year in which the enterprise begins operating and maintaining the infrastructure facility;

(ca) "infrastructure facility" means a road, highway, bridge, airport, port or 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;'.

Section 20 - Amendment of Section 80L

In section 80L of the Income-tax Act, in sub-section (1), in clauses (1) and (2), for the words "ten thousand", the words "thirteen thousand" shall be substituted with effect from the 1st day of April, 1996.

Section 21 - Amendment of Section 80U

In section 80U of the Income-tax Act, for the words "twenty thousand rupees", the words "forty thousand rupees" shall be substituted, with effect from the 1st day of April, 1996.

Section 22 - Amendment of Section 88

In section 88 of the Income-tax Act, with effect from the 1st day of April, 1996, -

(i) sub-section (3) shall be omitted;

(ii) in sub-section (7), in clause (i), for the words "contract of insurance, before premiums have been paid for two years; or", the following shall be substituted, namely :-

"contract of insurance, -

(a) in case of any single premium policy, within two years after the date of commencement of insurance, or

(b) in any other case, before premiums have been paid for two years; or".

Section 23 - Amendment of Section 112

In section 112 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1996, -

(i) the proviso at the end of clause (b) shall be omitted;

(ii) the Explanation, at the end, shall be omitted.

Section 24 - Insertion of New Section 113

After section 112 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of July, 1995, namely :-

"113. Tax in the case of block assessment of search cases. - The total undisclosed income of the block period, determined under section 158BC, shall be chargeable to tax at the rate of sixty per cent."

Section 25 - Amendment of Section 115K

In section 115K of the Income-tax Act, with effect from the 1st day of April, 1996, -

(a) for the words "forty-two thousand rupees", wherever they occur, the words "forty-seven thousand rupees" shall be substituted;

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

Section 26 - Amendment of Section 132

In section 132, in sub-section (5), after the words, brackets, figure and letter "or sub-section (1A)", the words, figures and letters "as a result of a search initiated or requisition made before the 1st day of July, 1995," shall be inserted with effect from the 1st day of July, 1995.

Section 27 - Amendment of Section 133

In section 133 of the Income-tax Act, in clause (6), with effect from the 1st day of July, 1995, -

(a) after the words "will be useful for, or relevant to, any" the words "inquiry or" shall be inserted; and

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

"Provided further that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Director or Commissioner without the prior approval of the Director or, as the case may be, the Commissioner."

Section 28 - Amendment of Section 133A

In section 133A of the Income-tax Act, with effect from the 1st day of July, 1995, -

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

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

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

"(c) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,";

(b) in the Explanation occurring at the end, in clause (a), for the words "a Deputy Commissioner", the words "a Commissioner, a Deputy Commissioner, a Director, a Deputy Director," shall be substituted.

Section 29 - Amendment of Section 139

In section 139 of the Income-tax Act, with effect from the 1st day of July, 1995, -

(a) in sub-section (6A), -

(i) the words, brackets and figures "sub-sections (1) and (3) of" shall be omitted;

(ii) for the words, figures and letters "obtained under section 44AB", the words, figures and letters "referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, a copy of such report together with proof of furnishing the report" shall be substituted;

(b) in sub-section (9), in the Explanation, for clause (bb), the following clause shall be substituted, namely :-

"(bb) the return is accompanied by the report of the audit referred to in section 44AB, or, where the report has been furnished prior to the furnishing of the return, by a copy of such report together with proof of furnishing the report;".

Section 30 - Substitution of New Section for Section 139A

For section 139A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of July, 1995, namely :-

'139A. Permanent account number. - (1) Every person, -

(i) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income tax; or

(ii) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed fifty thousand rupees in any previous year; or

(iii) who is required to furnish a return of income under sub-section (4A) of section 139,

and who has not been allotted a permanent account number shall, within such time, as may be prescribed, apply to the Assessing Officer for the allotment of a permanent account number.

(2) The Assessing Officer may also allot to any other person by whom tax is payable, a permanent account number.

(3) Any person, not falling under sub-section (1) or sub-section (2), may apply to the Assessing Officer for the allotment of a permanent account number and, thereupon, the Assessing Officer shall allot a permanent account number to such person forthwith.

(4) For the purpose of allotment of permanent account numbers under the new series, the Board may, by notification in the Official Gazette, specify the date from which the persons referred to in sub-sections (1) and (2) and other persons who have been allotted permanent account numbers and residing in a place to be specified in such notification, shall, within such time as may be specified, apply to the Assessing Officer for the allotment of a permanent account number under the new series and upon allotment of such permanent account number to a person, the permanent account number, if any, allotted to him earlier shall cease to have effect :

Provided that the persons to whom permanent account number under the new series has already been allotted shall not apply for such number again.

(5) Every person shall -

(a) quote such number in all his returns to, or correspondence with, any income-tax authority;

(b) quote such number in all challans for the payment of any sum due under this Act;

(c) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him :

Provided that the Board may prescribe different dates for different transactions or class of transactions or for different class of persons;

(d) intimate the Assessing Officer any change in his address or in the name and nature of his business on the basis of which the permanent account number was allotted to him.

(6) Every person receiving any document relating to a transaction prescribed under clause (c) of sub-section (5) shall ensure that the permanent account number has been duly quoted in the document.

(7) No person who has already been allotted a permanent account number under the new series shall apply, obtain or possess another permanent account number.

(8) The Board may make rules providing for -

(a) the form and the manner in which an application may be made for the allotment of a permanent account number and the particulars which such application shall contain;

(b) the categories of transactions in relation to which permanent account numbers shall be quoted by every person in the documents pertaining to such transactions;

(c) the categories of documents pertaining to business or profession in which such numbers shall be quoted by every person.

Explanation : For the purposes of this section, -

(a) "Assessing Officer" includes an income-tax authority who is assigned the duty of allotting permanent account numbers;

(b) "permanent account number" means a number which the Assessing Officer may allot to any person for the purpose of identification and includes a permanent account number allotted under the new series;

(c) "permanent account number under the new series" means a permanent account number having ten alphanumeric characters and issued in the form of a laminated card.'.

Section 31 - Substitution of New Section for Section 145

For section 145 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1997, namely :-

'145. Method of accounting. - (1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.

(2) The Central Government may notify in the Official Gazette from time to time accounting standards to be followed by any class assessees or in respect of any class of income.

(3) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) or accounting standards as notified under sub-section (2), have not been regularly followed by

the assessee, the Assessing Officer may make an assessment in the manner provided in section 144.'

Section 32 - Insertion of New Chapter XIVB

In the Income-tax Act, after Chapter XIVA, the following Chapter shall be inserted with effect from the 1st day of July, 1995, namely :-

CHAPTER XIV-B

Special Procedure For Assessment Of Search Cases

158B. Definitions

In This Chapter, Unless The Context Otherwise Requires,-

(a) "block period" means the period of ten previous years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A, and includes, in the previous year in which such search was conducted or requisition made, the period up to the date of the commencement of such search or, as the case may be, the date of such requisition;

(b) "undisclosed income" includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act.

158BA. Assessment Of Undisclosed Income As A Result Of Search

(1) Notwithstanding Anything Contained In Any Other Provisions Of This Act, Where After The 30th day of June, 1995, a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of any person, then, the Assessing Officer shall proceed to assess the undisclosed income in accordance with the provisions of this Chapter.

(2) The total undisclosed income relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates and irrespective of the fact whether regular assessment for any one or more of the relevant assessment years is pending or not.

(3) Where the assessee proves to the satisfaction of the Assessing Officer that any part of income referred to in sub-section (1) relates to an assessment year for which the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 for any previous year has not expired, and such income or the transactions relating to such income are recorded on or before the date of the search or requisition in the books of account or other documents maintained in the normal course relating to such previous years, the said income shall not be included in the block period.

158BB. Computation Of Undisclosed Income Of The Block Period

(1) The Undisclosed Income Of The Block Period Shall Be The Aggregate Of The Total Income Of the previous years falling within the block period computed, in accordance with the provisions of Chapter IV, on the basis of evidence found as a result of search or requisition of books of account or documents and such other materials or information as are available with Assessing Officer, as reduced by the aggregate of the total income, or as the case may be, as increased by the aggregate of the losses of such previous years, determined, -

(a) where assessments under section 143 or section 144 or section 147 have been concluded, on the basis of such assessments;

(b) where returns of income have been filed under section 139 or section 147 but assessments have not been made till the date of search or requisition, on the basis of the income disclosed in such returns;

(c) where the due date for filing a return of income has expired but no return of income has been filed, as nil;

(d) where the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 has not expired, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition relating to such previous years;

(e) where any order of settlement has been made under sub-section (4) of section 245D, on the basis of such order;

(f) where an assessment of undisclosed income had been made earlier under clause (c) of section 158BC, on the basis of such assessment.

Explanation : For the purposes of determination of undisclosed income, -

(a) the total income or loss of each previous year shall, for the purpose of aggregation, be taken as the total income or loss computed in accordance with the provisions of Chapter IV without giving effect to set off of brought forward losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32;

(b) of a firm, or its partners, the method of computation of undisclosed income and its allocation to the partners shall be in accordance with the method adopted for determining the assessed income or returned income for each of the previous years falling within the block period;

(c) assessment under section 143 includes determination of income under sub-section (1) or sub-section (1B) of section 143.

(2) In computing the undisclosed income of the block period, the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to "financial year" in the those sections shall be construed as references to the relevant previous year falling in the block period including the previous year ending with the date of search or of the requisition.

(3) The burden of proving to the satisfaction of the Assessing Officer that any undisclosed income had already been disclosed in any return of income filed by the assessee before the commencement of search or of the requisition, as the case may be, shall be on the assessee.

(4) For the purpose of assessment under this Chapter, losses brought forward from the previous year under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter, but may be carried forward for being set off in the regular assessments.

158BC. Procedure For Block Assessment

Where Any Search Has Been Conducted Under Section 132 Or Books Of Account, Other Documents Or Assets Are requisitioned under section 132A, in the case of any person, then, -

(a) the Assessing Officer shall serve a notice to such person requiring him to furnish, within such time, not being less than fifteen days, as may be specified in the notice, a return in the prescribed form and verified in the same manner as a return under clause (i) of sub-section (1) of section 142, setting forth his total income including the undisclosed income for the block period :

Provided that no notice under section 148 is required to be issued for the purposes of proceeding under this Chapter;

(b) the Assessing Officer shall proceed to determine the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143 and section 144 shall, so far as may be, apply;

(c) the Assessing Officer, on determination of the undisclosed income of the block period in accordance with this Chapter, shall pass an order of assessment and determine the tax payable by him on the basis of such assessment;

(d) the assets seized under section 132 or requisitioned under section 132A shall be retained to the extent necessary and the provisions of section 132B shall apply subject to such modifications as may be necessary and the references to "regular assessment" or "reassessment" in section 132B shall be construed as references to "block assessment".

158BD. Undisclosed Income Of Any Other Person

Where The Assessing Officer Is Satisfied That Any Undisclosed Income Belongs To Any Person, Other Than The person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, the books of account, other documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against such other person and the provisions of this Chapter shall apply accordingly.

158BE. Time Limit For Completion Of Block Assessment

(1) The Order Under Section 158bc Shall Be Passed Within One Year From The End Of The Month In which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, in the case of an assessee, was executed.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be one year from the end of the month in which the notice under this Chapter was served on such other person.

158BF. Certain Interests And Penalties Not To Be Levied Or Imposed

No Interest Under The Provisions Of Section 234a, 234b Or 234c Or Penalty Under The provisions of clause (c) of sub-section (1) of section 271 or section 271A or section 271B shall be levied or imposed upon the assessee in respect of the undisclosed income determined in the block assessment.

158BG. Authority Competent To Make The Block Assessment

The Order Of Assessment For The Block Period Shall Be Passed By An Assessing Officer Not Below the rank of an Assistant Commissioner :

Provided that no such order shall be passed without the previous approval of the Commissioner.

158BH. Application Of Other Provisions Of This Act

Save As Otherwise Provided In This Chapter, All Other Provisions Of This Act Shall Apply To Assessment made under this Chapter.'

Section 33 - Amendment of Section 194A

In section 194A of the Income-tax Act, in sub-section (3), with effect from the 1st day of July, 1995, -

(a) in clause (i), the following proviso shall be inserted at the end, namely :-

'Provided that in respect of the income credited or paid in respect of 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 with a co-operative society engaged in carrying on the business of banking, 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, as the case may be;';

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

"(vii) to such income credited or paid in respect of deposits (other than time deposits made on or after the 1st day of July, 1995) 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);

(viia) to such income credited or paid in respect of, -

(a) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;";

(c) the following Explanation shall be inserted at the end, namely :-

'Explanation : For the purposes of clauses (i), (vii) and (viia), "time deposits" means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.'.

Section 34 - Amendment of Section 194C

In section 194C of the Income-tax Act, with effect from the 1st day of July, 1995, -

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

(a) in clause (i), for the words and figures "University Grants Commission Act, 1956 (3 of 1956)", the words and figures "University Grants Commission Act, 1956 (3 of 1956); or" shall be substituted;

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

"(j) any firm,";

(c) for the words "deduct an amount equal to two per cent. of such sum as income-tax on income comprised therein" the following shall be substituted namely :-

"deduct an amount equal to -

(i) one per cent. in case of advertising,

(ii) in any other case two per cent. of such sum as income-tax on income comprised therein.";

(ii) below sub-section (2), after Explanation II, the following Explanation shall be inserted, namely :-

'Explanation III : For the purposes of this section, the expression "work" shall also include -

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods and passengers by any mode of transport other than by Railways;

(d) catering.';

(iii) in sub-section (3), in clause (i), for the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted.

Section 35 - Amendment of Section 194-I

In section 194-I of the Income-tax Act, in the opening portion, for the words "deduct income-tax thereon at the rate of twenty per cent.", the following shall be substituted with effect from the 1st day of July, 1995, namely :-

"deduct income-tax thereon at the rate of -

(a) fifteen per cent. if the payee is an individual or a Hindu undivided family; and

(b) twenty per cent. in other cases."

Section 36 - Insertion of New Sections 194J and 194K

After section 194-I of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of July, 1995, namely :-

'194J. Fees for professional or technical services. - (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of -

(a) fees for professional services, or

(b) fees for technical services,

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to five per cent. of such sum as income-tax on income comprised therein :

Provided that no deduction shall be made under this section -

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to the payee, does not exceed -

(i) twenty thousand rupees, in the case of fees for professional services referred to in clause (a), or

(ii) twenty thousand rupees, in the case of fees for technical services referred to in clause (b).

(2) Where the Assessing Officer is satisfied that the total income of any person in receipt of the sum referred to in sub-section (1) justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by that person in this behalf, give to him such certificate as may be appropriate.

(3) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

Explanation : For the purposes of this section, -

(a) "professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

(b) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

(c) where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

194K. Income In Respect Of Units. - (1) Where Any Income Is Payable To A Resident In Respect Of Units Of A Mutual Fund Specified Under Clause (23d) Of Section 10 or of the Unit Trust of India the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of, -

(a) twenty per cent., if the payee is a company, and

(b) fifteen per cent. in the case of other payees.

(2) The provisions of sub-section (1) shall not apply -

(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person responsible for making the payment to the account of, or to, the payee does not exceed ten thousand rupees :

Provided that the amount of ten thousand rupees shall be computed with reference to the income credited or paid, -

(a) in respect of a branch office of the Mutual Fund or of the Unit Trust of India, as the case may be, and

(b) under a particular scheme under which the units have been issued;

(ii) to such income credited or paid before the 1st day of July, 1995;

(iii) to such income credited or paid in respect of units issued under such scheme already in operation of the Mutual Fund or of the Unit Trust of India, as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the plan of payment of income thereunder to the unit-holders; and

(iv) to such income credited or paid in respect of units issued under any scheme of the Unit Trust of India to any institution or fund where such income is not liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) or clause (22A) or clause (23) or clause (23AA) or clause (23C) of section 10.

Explanation : For the purposes of this section, -

(a) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(b) where any income as aforesaid is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall accordingly.'.

Section 37 - Substitution of New Section for Section 196A

For section 196A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of July, 1995, namely:-

'196A. Income in respect of units of non-residents. - (1) Any person responsible for paying to a non-resident, not being a company, or to a foreign company, any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax

thereon at the rate of twenty per cent.

(2) Notwithstanding anything contained in sub-section (1), no deduction of tax shall be made from any income payable in respect of units of the Unit Trust of India to a non-resident Indian or a non-resident Hindu undivided family, where the units have been acquired from the Unit Trust of India out of the funds in a Non-resident (External) Account maintained with any bank in India or by remittance of funds in f oreign currency, in accordance, in either case, with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and the rules made thereunder.

Explanation : For the purposes of this section -

(a) "foreign currency" shall have the meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973);

(b) "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C;

(c) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(d) where any income as aforesaid is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.'.

Section 38 - Amendment of Section 197

In section 197 of the Income-tax Act, in sub-section (1), after the figures and letter "194-I", the figures and letter, ", 194K" shall be inserted with effect from the 1st day of July, 1995.

Section 39 - Amendment of Section 197A

In section 197A of the Income-tax Act, for sub-section (1A), the following sub-section shall be substituted with effect from the 1st day of July, 1995, namely :-

"(1A) Notwithstanding anything contained in section 194A or section 194K, no deduction of tax shall be made under either of the said sections in the case of a person (not being a company or a firm), if such person furnishes to the person responsible for paying any income of the nature referred to in section 194A or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.".

Section 40 - Amendment of Sections 198 to 200 and 202 to 205

In sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act, after the word, figures and letter "section 194-I", the words, figures and letters "section 194J, section 194K", shall be inserted with effect from the 1st day of July, 1995.

Section 41 - Amendment of Section 230A

In section 230A of the Income-tax Act, in sub-section (1), for the words "two lakh rupees", the words "five lakh rupees" shall be substituted with effect from the 1st day of July, 1995.

Section 42 - Amendment of Section 234B

In section 234B of the Income-tax Act, -

(i) in sub-section (1), for the words "or regular assessment on an amount", the words "and where a regular assessment is made, to the date of such regular assessment, on an amount" shall be substituted and shall be deemed always to have been substituted with effect from the 1st day of April, 1989;

(ii) in sub-section (3), for the words, brackets and figure "or regular assessment referred to in sub-section (1)," the words, brackets and figure "and where a regular assessment is made as is referred to in sub-section (1) following the date of such regular assessment" shall be substituted and shall be deemed always to have been substituted with effect from the 1st day of April, 1989.

Section 43 - Amendment of Section 245C

In section 245C of the Income-tax Act, in sub-section (1), in the proviso, in clause (b), for the words "fifty thousand rupees", the words "one hundred thousand rupees" shall be substituted with effect from the 1st day of July, 1995.

Section 44 - Amendment of Section 245D

In section 245D of the Income-tax Act, in sub-section (1), for the second proviso, the following proviso shall be substituted with effect from the 1st day of July, 1995, namely :-

"Provided further that the Commissioner shall furnish the report within a period of forty-five days of the receipt of communication from the Settlement Commission in case of all applications made under section 245C on or after the 1st day of July, 1995, and if the Commissioner fails to furnish the report within the said period, the Settlement Commission may make the order without such report."

Section 45 - Amendment of Section 253

In section 253 of the Income-tax Act, with effect from the 1st day of July, 1995, -

(i) in sub-section (1), after clause (a), the following clause shall be inserted, namely :-

"(b) an order passed by an Assessing Officer under clause (c) of section 158BC; or";

(ii) in sub-section (3), the following proviso shall be inserted at the end, namely :-

'Provided that in respect of any appeal under clause (b) of sub-section (1), this sub-section shall have effect as if for the words "sixty days", the words "thirty days" had been substituted.'

Section 46 - Amendment of Section 269UC

In section 269UC of the Income-tax Act, with effect from the 1st day of July, 1995, -

(i) in sub-section (1), for the words "no transfer of any immovable property of such value exceeding five lakh rupees as may be prescribed", the words "no transfer of any immovable property in such area and of such value exceeding five lakh rupees, as may be prescribed", shall be substituted;

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

"(4) Where it is found that the statement referred to in sub-section (2) is defective, the appropriate authority may intimate the defect to the parties concerned and give them an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the appropriate authority may, in its discretion, allow and if the defect is not rectified within the

said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Chapter, the statement shall be deemed never to have been furnished.".

Section 47 - Amendment of Section 269UD

In section 269UD of the Income-tax Act, with effect from the 1st day of July, 1995, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely :-

"Provided also that the period of limitation referred to in the second proviso shall be reckoned, where any defect as referred to in sub-section (4) of section 269UC has been intimated, with reference to the date of receipt of the rectified statement by the appropriate authority :"

Section 48 - Amendment of Section 271B

In section 271B of the Income-tax Act, for the words, figures, letters and brackets "obtain a report of such audit as required under section 44AB or furnish the said report along with the return of his income filed under sub-section (1) of section 139, or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142", the words, figures and letters "furnish a report of such audit as required under section 44AB" shall be substituted with effect from the 1st day of July, 1995.

Section 49 - Amendment of Section 293A

In section 293A of the Income-tax Act, -

(a) in sub-section (1), after the words "or in regard to the whole or part of the income of such class of persons", the following words shall be inserted and shall be deemed always to have been inserted with effect from the 1st day of April, 1993, namely :-

"or in regard to the status in which such class of persons or the members thereof are to be assessed on their income from the business referred to in clause (a) of sub-section (2) :

Provided that the notification for modification in respect of the status may be given effect from an assessment year beginning on or after the 1st day of April, 1993.";

(b) for Explanation occurring at the end, the following Explanation shall be substituted and shall be deemed always to have been substituted with effect from the 1st day of April, 1993, namely :-

'Explanation : For the purposes of this section, -

(a) "mineral oil" includes petroleum and natural gas;

(b) "status" means the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on.'.

Section 50 - Substitution of new authorities

In the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act), unless the context otherwise requires, references to any authority specified in column (2) of the Table below shall be substituted by the references to the authority specified in the corresponding entry in column (3) of the said Table and such consequential changes as the rules of grammar may require shall also be made.-

TABLE

S.No.	Existing Designation	Substituted Designation

(1)	(2)	(3)
1.	Principal Collector of Customs	Chief Commissioner of Customs
2.	Collector of Customs	Commissioner of Customs
3.	Collector (Appeals)	Commissioner (Appeals)
4.	Deputy Collector of Customs	Deputy Commissioner of Customs
5.	Assistant Collector of Customs	Assistant Commissioner of Customs.

Section 51 - Amendment of section 2

In section 2 of the Customs Act,-

(i) in clause (1), for the words and brackets "Collector (Appeals)", the words and brackets "Commissioner (Appeals)" shall be substituted;

(ii) for clauses (7A) and (8), the following clauses shall be substituted, namely.-

'(7A) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Customs (Appeals) under sub-section (1) of section 4;

(8) "Commissioner of Customs", except for the purposes of Chapter XV, includes an Additional Commissioner of Customs; '.

Section 52 - Substitution of new sections for sections 3 and 4

For section 3 and 4 of the Customs Act, the following sections shall be substituted namely.-

"3. Classes of officers of customs.-

There shall be the following classes of officers of customs, namely.-

(a) Chief Commissioners of Customs;

(b) Commissioners of Customs;

(c) Commissioners of Customs (Appeals);

(d) Deputy Commissioners of Customs;

(e) Assistant Commissioners of Customs; and

(f) such other class of officers of customs as may be appointed for the purposes of this Act.4.Appointment of officers of customs.-

(1) The Central Government may appoint such persons as it thinks fit to be officers of customs.(2) Without prejudice to the provisions of sub-section (1), the Central Government may authorise the Board, a Commissioner of Customs or a Deputy or Assistant Commissioner of Customs to appoint officers of customs below the rank of Assistant Commissioner of Customs.

Section 53 - Amendment of section 20

In section 20 of the Customs Act, the provisos and the Explanations shall be omitted.

Section 54 - Amendment of section 27

In section 27 of the Customs Act, in sub-section (1), for the words " in such form", the words "in such form and manner" shall be substituted.

Section 55 - Insertion of new section 27A

After section 27 of the Customs Act, the following section shall be inserted, namely.-

"27A.Interest on delayed refunds.-

If any duty ordered to be refunded under sub-section (2) of section 27 to an applicant is not refunded within three months from the date of receipt of application under sub-section (1), of that section, there shall be paid to that applicant interest at such rate, not below ten per cent. and not exceeding thirty per cent. per annum as is for the time being fixed by the Board, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty:

Provided that where any duty, ordered to be refunded under sub-section (2) of section 27 in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Explanation.- Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal or any court against an order of the Assistant Commissioner of Customs under sub-section (2) of section 27, the order passed by the Commissioner (Appeals), Appellate Tribunal of, as the case may be, by the court shall be deemed to be an order passed under that sub-section for the purposes of this section.

Section 56 - Substitution of new section for section 28

For section 28 of the Customs Act, the following sections shall be substituted, namely.-

"28.Notice for payment of duties, interest, etc..-

(1) When any duty has not been levied or has been short-levied or erroneously refunded, or when any interest payable has not been paid, part paid or erroneously refunded, the proper officer may,-

(a) in the case of any import made by any individual for his personal use or by Government or by any educational, research or charitable institution or hospital, within one year;

(b) in any other case, within six months, from the relevant date, serve notice on the person chargeable with the duty or interest which has not been levied or charged or which has been so short-levied or part paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

Provided that where any duty has not been levied or has been short-levied or the interest has not been charged or has been part paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter, the provisions of this sub-section shall have effect as if for the words "one year" and "six months", the words "five years" were substituted.

Explanation.- Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of one year or six months or five years, as the case may be.

(2) The proper officer, after considering the representation, if any, made by the person on whom notice is served under sub-section (1), shall determine the amount of duty or interest due from such person (not being excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(3) For the purposes of sub-section (1), the expression "relevant date" means,-

(a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of the goods;

(b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof;

(c) in a case where duty or interest has been erroneously refunded, the date of refund;

(d) in any other case, the date of payment of duty or interest."

Section 57 - Insertion of new section 28AA

After section 28A of the Customs Act, the following section shall be inserted, namely.-

"28AA. Interest on delayed payment of duty.-

Where a person, chargeable with the duty determined under sub-section (2) of section 28, fails to pay such duty within three months from the date of such determination, he shall pay, in addition to the duty, interest at such rate not below ten percent. and not exceeding thirty per cent. per annum, as is for the time being fixed by the Board, on such duty from the date immediately after the expiry of the said period of three months till the date of payment of such duty:

Provided that where a person, chargeable with duty determined under sub-section (2) of section 28 before the date on which the Finance Bill, 1995 receives the assent of the President, fails to pay such duty within three months from such date, then, such person shall be liable to pay interest under this section from the date immediately after three months from such date, till the date of payment of such duty.

Explanation 1.-Where the duty determined to be payable is reduced by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, the court, the date of such determination shall be the date on which as amount of duty is first determined to be payable.

Explanation 2.- Where the duty determined to be payable is increased or further increased by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, the court, the date of such determination shall be,-

(a) for the amount of duty first determined to be payable, the date on which the duty is so determined;

(b) for the amount of increased duty, the date of order by which the increased amount of duty is first determined to be payable;

(c) for the amount of further increase of duty, the date of order on which the duty is so further increased.

Section 58 - Amendment of section 45

In section 45 of the Customs Act, after sub-section (2), the following sub-section shall be inserted,"(3) Notwithstanding anything contained in any law for the time being in force, if any imported goods are pilfered after unloading thereof in a customs area while in the custody of a person referred to in sub-section (1), that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or, as the case may be, an import report to the proper officer under section 30 for the arrival of the conveyance in which the said goods were carried.

Section 59 - Amendment of section 47

In section 47 of the Customs Act, in sub-section (2),-

(a) for the words "twenty per cent", the words "ten per cent" shall be substituted;

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

"Provided further that if the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section".

Section 60 - Amendment of section 74

In section 74 of the Customs Act, for sub-section (3), the following sub-section shall be substituted, namely.-

"(3) The Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may-

(a) provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;

(b) specify the goods which shall be deemed to be not capable of being easily identified; and

(c) provide for the manner and the time within which a claim for payment of drawback is to be filed."

Section 61 - Amendment of section 75

In section 75 of the Customs Act,-

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

(I) for the words manufactured in India", the words "manufactured, processed or on which any operation has been carried out in India" shall be substituted;

(ii) for the words "manufacture of such goods" whatever they occur, the words "manufacture or processing of such goods or carrying out any operation on such goods" shall be substituted;

(b) in sub-section (1A), for the words "manufactured in India", the words "manufactured, processed or on which any operation has been carried out in India" shall be substituted;

(c) in sub-section (2),-

(I) for clause (a), the following clause shall be substituted, namely.-

"(a) for the payment of drawback equal to the amount of duty actually paid on the imported materials used in the manufacture or processing of the goods or carrying out any operation on the goods or as in specified in the rules as the average amount of duty paid on the materials of that class or description used in the manufacture or processing of export goods or carrying out any operation on export goods of that class or description either by

manufacturers generally or by persons processing or carrying on any operation generally or by any particular manufacturer or particulars person carrying on any process or other operation, and interest, if any, payable thereon; ";

(ii) in clause (ab), after the word, brackets and figure "sub-section (1)", the words "or interest chargeable thereon" shall be inserted;

(iii) in clause (c),-

(a) for the word "manufacturers", the words "manufacturer or the person carrying on any process or other operation" shall be substituted;

(b) for the word "manufacture", the words "manufacture, process or any other operations carried out" shall be substituted;

(iv) after clause (c), the following clause shall be inserted, namely.-

"(d) for the manner and the time within which the claim for payment of drawback may be filed; ";

(d) after sub-section (2), the following sub-section shall be inserted, namely.-

"(3) the power to make rules conferred by sub-section 92) shall include the power to give drawback with retrospective effect from a date not earlier than the date of changes in the rates of duty on inputs used in the exports goods.

Section 62 - Insertion of new section 75A

After section 75 of the Customs Act, the following section shall be inserted, namely.-

"75A. Interest on drawback.-

(1) Where any drawback payable to a claimant under section 74 or section 75 is not paid within a period of three months from the date of filing a claim for payment of such drawback, there shall be paid to that claimant in addition to the amount of drawback, interest at the rate fixed under section 27A from the date after the expiry of the said period of three months till the date of payment of such drawback:

Provided that where any drawback, ordered to be paid under section 74 or section 75 in respect of a claim under any of the said sections filed before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such drawback.

(2) Where any drawback has been paid to the claimant erroneously, the claimant shall, within a period of three months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under section 28AA from the date after the expiry of the said period of three months till the date of recovery of such drawback."

Section 63 - Amendment of section 80

In section 80 of the Customs Act, after the words "on his leaving India", the words "and if for any reason, the passenger is not able to collect the article at the time of his leaving India, the article may be returned to him through any other passenger authorised by him and leaving India or as cargo consigned in his name" shall be inserted.

Section 64 - Insertion of new section 98A

After section 98 of the Customs Act, the following section shall be inserted, namely.-

"98A.Power to relax.-

If the Central Government is satisfied that it is necessary in the public interest so to do it may, by notification in the Official Gazette, exempt generally, either absolutely or subject to such conditions as may be specified in the notification, coastal goods or vessels carrying coastal goods from all or any of the provisions of this Chapter."

Section 65 - Amendment of section 129C

In section 129C of the Customs Act,-

(a) in sub-section (2), for the words, brackets and figures "sub-sections (3) and (4)", the word, brackets and figure "sub-section (4)" shall be substituted;

(b) sub-section (3) shall be omitted.

Section 66 - Amendment of section 142

In section 142 of the Customs Act, in sub-section (1),-

(a) in the opening portion, for the words "Where any duty demanded from any person or any amount of drawback to be recovered from any person or any penalty payable by any person", the words "Where any sum payable by any person" shall be substituted;

(b) for clause (c), the following clause shall be substituted, namely.-

(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b)-

(i) the Assistant Commissioner of Customs may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

or

(ii) the proper office may, on an authorisation by a Commissioner of Customs and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid;

and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of safe remaining unpaid and shall render the surplus, if any, to such person."

Section 67 - Amendment of section 157

In section 157 of the Customs Act, in sub-section (2), in clause (aa), for the word "form", the words "form and manner" shall be substituted.

Section 68 - Substitution of new section for section 159

For section 159 of the Customs Act, the following section shall be substituted, namely.-

"159. Rules, certain notifications and orders to be laid before Parliament.-

Every rule or regulation made under this Act, every notification issued under sections 11, 11B, 11H, 11-I, 11K, 11N, 14, 25, 28A, 43, 66, 69, 70, 74, 75, 76, 98, 98A, 101 and 123 and every order made under sub-section (2) of section 25, other than an order relating to goods of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification or order, or both Houses agree that the rule or regulation should not be made or notification or order should not be issued or made, the rule or regulation or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be;

so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification or order."

Section 69 - Amendment of Act 51 of 1975

The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),-

(a) shall be amended in the manner specified in the Second Schedule; and

(b) shall, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, be also amended in the manner specified in the Third Schedule.

Section 70 to 81 - Excise

Section 70 - Substituted of new authorities

In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), unless the context otherwise requires, the references to any authority or authorities specified in column (2) of the Table below shall be substituted by the references to the authority or authorities specified in the corresponding entry in column (3) of the said Table and such consequential changes as the rules of grammar may require shall also be made.-

TABLE

S. No.	Existing	Designation	Substituted Des
(1)	(2)	(3)	
1.	Principal	Collector of Central Excise	Chief Commissi Central Excise
2.	Collector of Central Excise	Commissioner of Central Excise	
3.	Collector of Central Excise (Appeals)/Collector (Appeals)	Commissioner of Central Excise (Appeals) /Commissioner (Appeals)	
4.	Deputy Collector of Central Excise	Deputy Commissioner of Central Excise	

5.	Assistant Collector of Central Excise	Assistant Commissioner of Central Excise.	

Section 71 - Amendment of section 2

In section 2 of the Central Excises Act, for clause (b), the following clause shall be substituted, namely.-

'(b) "Central Excise Officer" means the Chief Commissioner of Central Excise, Commissioner of Central Excise, Commissioner of Central Excise (Appeals), Additional Commissioner of Central Excise, Deputy Commissioner of Central Excise, Assistant Commissioner of Central Excise or any other officer of the Central Excise Department, or any person (including an officer of the State Government) invested by the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 with any of the powers of a Central Excise Officer under this Act."

Section 72 - Amendment of section 11A

In section 11A of the Central Excises Act, in sub-section (3), in clause (ii) for sub-clause (a), the following sub-clause shall be substituted, namely.-

"(a) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid-

(A) where under the rules made under this Act a periodical return, showing particulars of the duty paid on the excisable goods removed during the period to which the said return relates, is to be filed by a manufacturer or a producer or a licensee of a warehouse, as the case may be, the date on which such return is so filed;

(B) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;

(C) in any other case, the date on which the duty is to be paid under this Act or the rules made thereunder;

Section 73 - Insertion of new section 11AA

After section 11A of the Central Excises Act, following section shall be inserted, namely.-

"11AA Interest on dalayed payment of duty.-

Where a person, chargeable with duty determined under sub-section (2) of section 11A, fails to pay such duty within three months from the date of such determination, he shall pay, in addition to the duty, interest at such rate not below ten percent. and not exceeding thirty per cent .per annum as is for the time being fixed by the Board, on such duty from the date immediately after the expiry of the said period of three months till the date of payment of such duty:

Provided that where a person chargeable with duty determined under sub-section (2) of section 11A before the date on which the Finance Bill, 1995 receives the assent of the President, fails to pay such duty within three months from such date, then such person shall be liable to pay interest under this section from the date immediately after three months from such date, till the date of payment of such duty.

Explanation 1.- Where the duty determined to be payable is reduced by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, the court, the date of such determination shall be the date on which an amount of duty is first determined to be

payable.

Explanation 2.-Where the duty determined to be payable is increased or further increased by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, the court, the date of such determination shall be,-

(a) for the amount of duty first determined to be payable, the date on which the duty is so determined;

(b) for the amount of increased duty, the date of order by which the increased amount of duty is first determined to be payable;

(c) for the amount of further increase of duty, the date of order on which the duty is so further increased."

Section 74 - Amendment of section 11B

In section 11B of the Central Excises Act, in sub-section (1), for the words "in such form", the words "in such form and manner" shall be substituted.

Section 75 - Insertion of new section 11BB

After section 11B of the Central Excises Act, the following section shall be inserted, namely.-

"11BB.Interest on delayed refunds.-

If any duty ordered to be refunded under sub-section (2) of section 11B to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant interest at such rate, not below ten per cent, and not exceeding thirty per cent. per annum as is for the time being fixed by the Board, on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty:

Provided that where any duty ordered to be refunded under sub-section (2) of section 11B in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Explanation.- Where any order of refund is made by the Commissioner (Appeals), Appellate section (2) of section 11B, the order passed by the Commissioner (Appeals), Appellate Tribunal or, as the case may be, by the court shall be deemed to be an order passed under the said sub-section (2) for the purposes of this section."

Section 76 - Insertion of new section 14A

After section 14 of the Central Excises Act, the following section shall be inserted, namely.-

"14A. Special audit in certain cases.-

(1) If at any stage of enquiry, investigation or any other proceedings before him, any Central Excise Officer not below the rank of an Assistant Commissioner of Central Excise, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or determined by a manufacturer or any person, he may, with the previous approval of the Chief Commissioner of Central Excise, direct such manufacturer or such person to get the accounts of his factory, office, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a cost accountant, nominated by the Chief Commissioner of Central Excise in this behalf.

(2) The cost accountant, so nominated shall, within the period specified by the Central Excise Officer, submit a report of such audit duly signed and certified by him to the said Central Excise Officer mentioning therein such other particular as may be specified:

Provided that the Central Excise Officer may, on an application made to him in this behalf by the manufacturer or the person and for any material and sufficient reason, extend the said period by such further period or periods as he thinks fit;

so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (1) is received by the manufacturer or the person

(3) The provisions of sub-section (1) shall be effect notwithstanding that the accounts of the manufacturers or person aforesaid have been audited under any other law for the time being in force or otherwise.

(4) The expenses of, and incidental to, such audit (including the remunerating of the cost accountant) shall be determined by the Chief Commissioner of Central Excise (which determination shall be final) and paid by the manufacturer or person and in default of such payment, shall be recoverable from the manufacturer or the person in the manner provided in section 11 for the recovery of sums due to the Government

(5) The manufacturer or the person shall be given an opportunity of being heard in respect of any material gathered on the basis of audit under sub-section (1) and proposed to be utilised in any proceedings under this Act or rules made thereunder.

Explanation.-For the purpose of this section, "cost accountant" shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959."

Section 77 - Amendment of section 350

In section 35D of the Central Excises Act, sub-section (2) shall be omitted.

Section 78 - Amendment of section 37

In section 37 of the Central Excises Act,-

(a) in sub-section (2),-

(i) in clause (xvi), after the words "outside India", the words "including interest thereon" shall be inserted;

(ii) after clause (xvib), the following sub-section shall be inserted, namely.-

(xvic) provide for charging and payment of interest, as the case may be, on credit of duty paid or deemed to have been paid on the goods used in, or in relation to, the manufacture of excisable goods where such credit is varied subsequently;

(iii) in clause (xxiii), for the word "form", the words "form and manner" shall be substituted;

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

"(2A) The power to make rules conferred by clause (xvi) of sub-section (2) shall include the power to give retrospective effect to rebate of duties on inputs used in the export goods from a date not earlier than the changes in the rates of duty on such inputs."

Section 79 - Amendment of section 38

In section 38 of the Central Excises Act, for sub-section (2), the following sub-section shall be substituted, namely.-

(2) Every rule made under this Act, every notification issued under sub-section (1) of section 5A and section 11C and every order made under sub-section (2) of section 5A, other than an order relating to goods of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or order, or both Houses agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be;

so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order."

Section 80 - Amendment of Act 5 of 1986

The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Fourth Schedule.

Section 81 - Amendment of Act 58 of 1957

The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act) shall be amended in the manner specified in the Fifth Schedule.

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