Finance Act, 1988

Section 206C - Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc

1983. Section 17 - Amendment Of Section 47 In section 47 of the Income-tax Act, after clause (v), the following proviso shall be inserted, namely :- "Provided that nothing contained in clause (iv) or clause (v) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade." Section 18 - Amendment Of Section 56 In section 56 of the Income-tax Act, in sub-section (2), after clause (ic) [as inserted by section 26 of the Finance Act, 1987 (11 of 1987)], the following clause shall be inserted with effect from the 1st day of April, 1989, namely :- '(id) income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";'. Section 19 - Amendment Of Section 57 In section 57 of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) in clause (i), - (1) after the word "dividends", the words "or interest on securities" shall be inserted; (2) after the words "such dividend", the words "or interest" shall be inserted; (b) the Explanation shall be omitted. Section 20 - Amendment Of Section 58 In section 58 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1989, - (a) in clause (a), in sub-clause (ii), the words and figures "and in respect of which there is no person in India who may be treated as an agent under section 163" shall be omitted; (b) clause (b) shall be omitted. Section 21 - Amendment Of Section 79 In section 79 of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) in clause (a), - (i) the word "or" occurring at the end shall be omitted; (ii) the following proviso shall be added at the end, namely :- Provided that nothing contained in this section shall apply to a case where a change in the said voting power takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift. (b) clause (b) shall be omitted. Section 22 - Amendment Of Section 80CC In section 80CC of the Income-tax Act, in sub-section (1), after the words "eligible issue of capital,", the words, brackets, figures and letter "or units of any Mutual Fund specified under clause (23D) of section 10 if such Fund subscribes only to eligible issue of capital," shall be inserted with effect from the 1st day of April, 1989. Section 23 - Substitution Of New Section For Section 80CCA23 Substitution Of New Section For Section 80CCA. For section 80CCA of the Income-tax Act [as inserted by section 34 of the Finance Act, 1987 (11 of 1987)], the following section shall be substituted, namely :- '80CCA. Deduction in respect of deposits under National Savings Scheme or payment to a deferred annuity plan. - (1) Where an assessee, being - (a) an individual, or (b) a Hindu undivided family, or (c) an association of persons or a body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, has in the previous year - (i) deposited any amount in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf (hereafter in the section referred to as the National Savings Scheme); or (ii) paid any amount to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation as the Central Government may, by notification in the Official Gazette, specify, out of his income chargeable to tax, 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 deposited or paid (excluding interest or bonus accrued or credited to the assessee's account, if any) as does not exceed the amount of twenty thousand rupees in the previous year : Provided that in relation to the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years, this sub-section shall have effect as if for the words "twenty thousand rupees", the words "thirty thousand rupees" had been substituted. (2) Where any amount - (a) standing to the credit of the assessee under the National Savings Scheme in respect of which a deduction has been allowed under sub-section (1) together with the interest accrued on such amount is withdrawn in whole or part in any previous year, or (b) is received on account of the surrender of the policy or as annuity or bonus in accordance with the annuity plan of the Life Insurance Corporation in any previous year, 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 of that previous year in which such withdrawal is made or, as the case may be, amount is received, and shall, accordingly, be chargeable to tax as the income of that previous year. Explanation I : For the removal of doubts, it is hereby declared that interest on the deposits made under the National Savings Scheme shall not be chargeable to tax except in the manner and to the extent specified in sub-section (2). Explanation II : For the purposes of this section, "Life Insurance Corporation" shall have the same meaning as in clause (a) of sub-section (8) of section 80C.'. Section 24 - Amendment Of Section 80HHC In section 80HHC of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) for sub-section (1), the following sub-sections shall be substituted, namely :- "(1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of the whole of the income derived by the assessee from the export of such goods or merchandise : Provided that if the assessee, being a holder of an Export House Certificate or a Trading House Certificate, (hereafter in this section referred to as an Export House or a Trading House, as the case may be), issues a certificate referred to in clause (b) of sub-section (4A), that in respect of the amount of the export turnover specified therein, the deduction under this sub-section is to be allowed to a supporting manufacturer, then the amount of deduction in the case of the assessee shall be reduced by such amount which bears to the total profits of the export business of the assessee the same proportion as the amount of export turnover specified in the said certificate bears to the total export turnover of the assessee. (1A) Where the assessee, being a supporting manufacturer, has during the previous year, sold goods or merchandise to any Export House or Trading House in respect of which the Export House or Trading House has issued a certificate under the proviso to sub-section (1), there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee, a deduction of the whole of the income derived by the assessee from the sale of goods or merchandise to the Export House or Trading House in respect of which the certificate has been issued by the Export House or Trading House."; (b) after sub-section (3), the following sub-section shall be inserted, namely :- '(3A) For the purposes of sub-section (1A), profits derived by a supporting manufacturer from the sale of goods or merchandise shall be, - (a) in a case where the business carried on by the supporting manufacturer consists exclusively of sale of goods or merchandise to one or more Export Houses or Trading Houses, the profits of the business as computed under the head "Profits and gains of business or profession"; (b) in a case where the business carried on by the supporting manufacturer does not consist exclusively of sale of goods or merchandise to one or more Export Houses or Trading Houses, the amount which bears to the profits of the business (as computed under the head "Profits and gains of business or profession") the same proportion as the turnover in respect of sale to the respective Export House or Trading House bears to the total turnover of the business carried on by the assessee.'; (c) after sub-section (4), the following sub-section shall be inserted, namely :- "(4A) The deduction under sub-section (1A) shall not be admissible unless the supporting manufacturer furnishes in the prescribed form along with his return of income, - (a) the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the income of the supporting manufacturer in respect of his sale of goods or merchandise to the Export House or Trading House; and (b) a certificate from the Export House or Trading House containing such particulars as may be prescribed and verified in the manner prescribed that in respect of the export turnover mentioned in the certificate, the Export House or Trading House has not claimed the deduction under this section : Provided that the certificate specified in clause (b) shall be duly certified by the auditor auditing the accounts of the Export House or Trading House under the provisions of this Act or under any other law."; (d) in the Explanation, after clause (c), the following clauses shall be inserted, namely :- '(d) "Export House Certificate" or "Trading House Certificate" means a valid Export House Certificate or Trading House Certificate, as the case may be, issued by the Chief Controller of Imports and Exports, Government of India; (e) "supporting manufacturer" means a person being an Indian company or a person (other than a company) resident in India, manufacturing goods or merchandise and selling such goods or merchandise to an Export House or a Trading House for the purposes of export.'. Section 25 - Amendment Of Section 80L In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1989, - (a) after clause (iii), the following clause shall be inserted, namely :- "(iiia) interest on deposits under the Post Office (Monthly Income Account) Rules, 1987;"; (b) in clause (vii), - (i) in the opening paragraph, the words "or with 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" shall be omitted; (ii) in the proviso, the words "or, as the case may be, the company" shall be omitted; (c) after clause (ix), the following clause shall be inserted, namely :- "(x) interest on deposits with, or dividend received from, any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes : Provided that the company is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36,"; (d) for the first and second provisos, the following provisos shall be substituted, namely :- "Provided that where the gross total income of the assessee includes any income by way of interest on any deposits referred to in clause (iia), or income in respect of units referred to in clause (v) or clause (va), or income by way of interest or dividend referred to in clause (x), there shall be allowed in computing the total income of the assessee, a further deduction of an amount equal to so much of such income as has not been allowed by way of deduction under the foregoing provisions of this sub-section; so, however, that the amount of such further deduction shall not exceed three thousand rupees : Provided further that where any income by way of interest on any deposits referred to in clause (iia) or any dividends referred to in clause (iv) remains unallowed after the deduction under the foregoing provisions 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 26 - Amendment Of Section 80-O In section 80-O of the Income-tax Act [as amended by section 36 of the Finance Act, 1987 (11 of 1987)], - (a) in the opening paragraph, - (i) for the words "under an agreement approved by the Board in this behalf", the words "under an agreement approved in this behalf by the Chief Commissioner or the Director General" shall be substituted with effect from the 1st day of April, 1989; (ii) for the portion beginning with the words "and such income is received in convertible foreign exchange" and ending with the words "in computing the total income of the assessee", the following shall be substituted, namely :- "and such income is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange, there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of an amount equal to fifty per cent. of the income so received in, or brought into, India, in computing the total income of the assessee"; (b) for the first and second provisos, the following provisos shall be substituted with effect from the 1st day of April, 1989, namely :- "Provided that the application for the approval of the agreement referred to in this section is made to the Chief Commissioner or, as the case may be, the Director General in the prescribed form and verified in the prescribed manner before the 1st day of October of the assessment year in relation to which the approval is first sought : Provided further that the approval of the Chief Commissioner or, as the case may be, the Director General shall not necessary in the case of any such agreement which has been approved for the purposes of the deduction under this section by the Central Government before the 1st day of April, 1972, or by the Board before the 1st day of April, 1989, and every application for such approval of any such agreement pending with the Board immediately before the 1st day of April, 1989, shall stand transferred to the Chief Commissioner or the Director General for disposal :". Section 27 - Amendment Of Section 80P In section 80P of the Income-tax Act, in sub-section (2), in clause (f), the words and figures "chargeable under section 18" shall be omitted with effect from the 1st day of April, 1989. Section 28 - Omission Of Section 86A Section 86A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1989. Section 29 - Amendment Of Section 89 In section 89 of the Income-tax Act, sub-section (2) shall be omitted with effect from the 1st day of April, 1989. Section 30 - Omission Of Section 112A Section 112A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1989. Section 31 - Amendment Of Section 115B Section 115B of the Income-tax Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of April, 1989, namely :- "(2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force or any instrument having the force of law, the assessee shall, in addition to the payment of income-tax computed under sub-section (1), deposit, during the previous year relevant to the assessment year commencing on the 1st day of April, 1989, an amount equal to thirty-three and one-third per cent. of the amount of income-tax computed under clause (i) of sub-section (1), in such social security fund (hereafter in this sub-section referred to as the security fund), as the Central Government may, by notification in the Official Gazette, specify in this behalf : Provided that where the assessee makes during the said previous year any deposit of an amount of not less than two and one-half per cent. of the profits and gains of the life insurance business in the security fund, the amount of income-tax payable by the assessee under the said clause (i) shall be reduced by an amount equal to two and one-half per cent. of such profits and gains and, accordingly, the deposit of thirty-three and one-third per cent. required to be made under this sub-section shall be calculated on the income-tax as so reduced." Section 32 - Amendment Of Section 115F In section 115F of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1989, - (a) in the opening portion, - (i) the words "or deposited" shall be omitted; (ii) the words, brackets, figures and letter "or in an account referred to in clause (4A)," shall be omitted; (iii) the words "or such deposit in the account aforesaid" shall be omitted; (b) in the Explanation, in clause (i), the words, brackets, figures and letter "referred to in clause (4A) of section 10 or" shall be omitted. Section 33 - Amendment Of Section 131 In section 131 of the Income-tax Act, with effect from the 1st day of June, 1988, - (a) in sub-section (1A), for the words "If the Assistant Director of Inspection", the words, brackets and figures "If the Director General or Director or Deputy Director or Assistant Director, or the authorised officer referred to in sub-section (1) of section 132 before he takes action under clauses (i) to (v) of that sub-section," shall be substituted; (b) in sub-section (3), in the proviso, in clause (b) [as amended by section 2 of the Direct Tax Laws (Amendment) Act, 1987 (4 of 1988)], for the words "the Chief Commissioner or Commissioner therefor", the words "the Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be" shall be substituted. Section 34 - Amendment Of Section 132 In section 132 of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely :- "Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iii)."; (b) in sub-section (3), after the words "other valuable article or thing,", the words, brackets and figure "for reasons other than those mentioned in the second proviso to sub-section (1)," shall be inserted. Section 35 - Amendment Of Section 139 In section 139 of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) in sub-section (6A), after the words "require him to furnish", the words, figures and letters "the report of any audit obtained under section 44AB, the" shall be inserted; (b) in the Explanation below sub-section (9), after clause (b), the following clause shall be inserted, namely :- "(bb) the return is accompanied by the report of the audit obtained under section 44AB;". Section 36 - Omission Of Section 181 Section 181 of the Income-tax Act and the sub-heading "O. - Liability of State Governments" above that section shall be omitted with effect from the 1st day of April, 1989. Section 37 - Amendment Of Section 193 In section 193 of the Income-tax Act, with effect from the 1st day of April, 1989, - (a) in the opening paragraph, for the words 'chargeable under the head "Interest on securities"', the words "by way of interest on securities" shall be substituted; (b) in the proviso, clause (ii) shall be omitted. Section 38 - Amendment Of Section 194C In section 194C of the Income-tax Act, after sub-section (2), the following Explanation shall be inserted with effect from the 1st day of June, 1988, namely :- 'Explanation : For the purposes of this section, where any sum referred to in sub-section (1) or sub-section (2) 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 39 - Amendment Of Section 195 In section 195 of the Income-tax Act, in the sub-section (2), for the words "in the prescribed manner", the words "by general or special order" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1988. Section 40 - Insertion Of New Section 206C After section 206B of the Income-tax Act, the following sub-heading and section shall be inserted with effect from the 1st day of June, 1988, namely :- "BB. - Collection at source 1) Every person, being a seller referred to in section 44AC, shall, at the time of debiting of the amount payable by the buyer referred to in that section to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax on income comprised therein. TABLE S. No. Nature of goods Percentage (1) (2) (3) (i) Alcoholic liquor for human consumption (other than Indian-made foreign liquor) Fifteen per cent. (ii) Timber obtained under a forest lease Fifteen per cent. (iii) Timber obtained by any mode other than under a forest lease Ten per cent. (iv) Any other forest produce not being timber Fifteen per cent. : Provided that where the Assessing Officer, on an application made by the buyer, gives a certificate in the prescribed form that to the best of his belief any of the goods referred to in the aforesaid Table are to be untilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes, the provisions of this sub-section shall not apply so long as the certificate is in force. (2) The power to recover tax by collection under sub-section (1) shall be without prejudice to any other mode of recovery. (3) Any person collecting any amount under sub-section (1) shall pay within seven days the amount so collected to the credit of the Central Government or as the Board directs. (4) Any amount collected in accordance with the provisions of this section and paid under sub-section (3) shall be deemed as payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected on the production of the certificate furnished under sub-section (5) in the assessment made under this Act for the assessment year for which such income is assessable. (5) Every person collecting tax in accordance with the provisions of this section shall within ten days from the date of debit or receipt of the amount furnish to the buyer to whose account such amount is debited or from whom such payment is received, a certificate to the effect that tax has been collected, and specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed. (6) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (3). (7) Without prejudice to the provisions of sub-section (6), if the seller does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of two per cent. per month or part thereof on the amount of such tax from the date on which such tax was collectable to the date on which the tax was actually paid. (8) Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the seller.". Section 41 - Amendment Of Section 230A In section 230A of the Income-tax Act, in sub-section (1), for the words "fifty thousand rupees", the words "two lakh rupees", shall be substituted. Section 42 - Insertion Of New Section 245DD After section 245D of the Income-tax Act, the following section shall be inserted, namely :- "245DD. Power of Settlement Commission to order provisional attachment to protect revenue. - (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in the Second Schedule : Provided that where a provisional attachment made under section 281B is pending immediately before an application is made under section 245C, an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under section 281B would have continued if such application had not been made : Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section (2) shall apply to such order as if the said order had originally been passed by the Settlement Commission. (2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1) : Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit, so, however, that the total period of extension shall not in any case exceed two years.". Section 43 - Amendment Of Section 246 In section 246 of the Income-tax Act, - (a) in sub-section (1), in clause (o), in sub-clause (iva), after the word, figures and letter "section 272B", the words, figures and letters "or section 272BB" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1987; (b) in sub-section (2), in clause (a), the words, figures and letters "or an order under section 104, as it stood immediately before the 1st day of April, 1988, in respect of any assessment for the assessment year commencing on the 1st day of April, 1987 or any earlier assessment years, made against the assessee, being a company" shall be inserted at the end. Section 44 - Amendment Of Section 263 In section 263 of the Income-tax Act, in sub-section (1), for the Explanation, the following Explanation, shall be substituted with effect from the 1st day of June, 1988, namely :- 'Explanation : For the removal of doubts, it is hereby declared that, for the purposes of this sub-section, - (a) an order passed by the Assessing Officer shall include - (i) an order of assessment made by the Assistant Commissioner or the Income-tax Officer on the basis of the directions issued by the Deputy Commissioner under section 144A; (ii) an order made by the Deputy Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer conferred on, or assigned to, him under the orders or directions issued by the Board or by the Chief Commissioner or Director General or Commissioner authorised by the Board in this behalf under section 120; (b) "record" includes all records relating to any proceeding under this Act available at the time of examination by the Commissioner; (c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject matter of any appeal, the powers of the Commissioner under this sub-section shall extend to such matters as had not been considered and decided in such appeal.'. Section 45 - Amendment Of Section 271B In section 271B of the Income-tax Act, after the words, figures and letters "or obtain a report of such audit as required under section 44AB", the words, brackets and figures "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" shall be inserted with effect from the 1st day of April,