

**THE THIRD SCHEDULE**

(See section 82)

[This schedule amends various chapters of the Central Excise Tariff Act, 1985, which amendments have been incorporated in the Act].

**THE FOURTH SCHEDULE**

(See section 83)

[This schedule amends First Schedule of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, which amendments have been incorporated in the Act].

**THE FIFTH SCHEDULE**

(See section 84)

In the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, against S. No. 7, for the entry in column (2), the following shall be substituted, namely:—

“TULLES AND OTHER NET FABRICS, NOT INCLUDING WOVEN, KNITTED OR CROCHETED FABRICS; LACE IN THE PIECE, IN STRIPS OR IN MOTIFES, OTHER THAN FABRICS OF HEADING NO. 60.02”.

**[THE] FINANCE ACT, 1997**  
**[ACT NO. 26 OF 1997]**

[14th May, 1997]

**An Act to give effect to the financial proposals of the Central Government for the financial year 1997-98.**

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

**CHAPTER I****PRELIMINARY**

**1. Short title and commencement.**— (1) This Act may be called the Finance Act, 1997.

(2) Save as otherwise provided in this Act, sections 2 to 61 shall be deemed to have come into force on the 1st day of April, 1997.

**CHAPTER II****RATES OF INCOME-TAX**

**2. Income-tax.**— (1) Subject to the provisions of sub-sections (2) and (3) for the assessment year commencing on the 1st day of April, 1997, Income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds forty thousand rupees, then,—

- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and
- (b) the income-tax chargeable shall be calculated as follows:—
  - (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

- (ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of Income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;
- (iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of Income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the Income-tax in respect of the total income.

(3) in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1 A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be :

Provided that the amount of Income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased in the case of a domestic company by a surcharge as provided in Paragraph E of Part I of the First Schedule :

Provided further that in respect of any income chargeable to tax under section 115B, or in the case of a domestic company having a total income exceeding seventy-five thousand rupees under section 115BB of the Income-tax Act, the Income-tax computed shall be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such Income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O of the Income-tax Act, the tax shall be charged and paid at the rate specified in that section.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) In cases in which tax has to be deducted under sections 194C, 194G, 194-I, 194J and 194K of the Income-tax Act, the deduction shall be made at the rates specified in those sections.

(7) In cases in which tax has to be collected under section 206C or under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rate specified in Part II of the First Schedule, as the case may be.

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be calculated under this first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule :

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(9) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, Income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds forty thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging Income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of sec-

tion 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

- (a) the net agricultural income shall be taken into account in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but without being liable to tax] only for the purpose of calculating, charging or computing such income-tax or as the case may be, "advance tax" in respect of the total income, and
- (b) such income-tax or, as the case may be, "advance tax" shall be so calculated, chargeable or computed as follows—
  - (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" should be determined in respect of the aggregate income at the rates specified in the said Paragraph A as if such aggregate income were the total income;
  - (ii) the net agricultural income shall be increased by a sum of forty-thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rate specified in the said Paragraph A as if the net agricultural income as so increased were the total income;
  - (iii) the amount of income-tax or "advance-tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the Income-tax or as the case may be, "advance tax" in respect of the total income.

(10) For the purposes of this section and the First Schedule,—

- (a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1997, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;
- (b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);
- (c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;
- (d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

[a] For modifications in S. 2 and First Schedule—See P.A. (1 of 1998), S. 2 as printed in this volume.

### CHAPTER III DIRECT TAXES

#### Income-tax

**3 to 30. Amendment of Act 43 of 1961.**— [Note :— These sections amend various sections of Income-tax Act, 1961, which amendments have been incorporated in the Act].

**31. Substitution of new section for section 88B.**— For section 88B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely :—

**“88B. Rebate of Income-tax in case of individuals of sixty-five years or above.**— An assessee, being an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, with respect to which he is chargeable for any assessment year, of an amount equal to hundred per cent. of the income-tax or an amount of ten thousand rupees, whichever is less.”

**32 to 37. Amendment of Act 43 of 1961.**— [Note :— These sections amend various provisions of Income-tax Act, 1961 which have been incorporated in the Act].

**38. Insertion of new section 115JAA.**— After section 115JA of the Income-tax Act, the following section shall be inserted, namely :—

**“115JAA. Tax credit in respect of tax paid on deemed income relating to certain companies.**— (1) Where any amount of tax is paid under sub-section (1) of section 115JA by an assessee being a company for any assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.

(2) The tax credit to be allowed under sub-section (1) shall be the difference of the tax payable for any assessment year under sub-section (1) of section 115JA and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act :

Provided that no interest shall be payable on the tax credit allowed under sub-section (1).

(3) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the provisions of sub-section (4) and sub-section (5) but such carry forward shall not be allowed beyond and fifth assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1).

(4) The Tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of this Act other than section 115JA.

(5) Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (1) of section 115JA for that assessment year.

(6) Where as a result of an order under sub-section (1) or sub-section (5) of section 143, section 144, section 147, section 154, section 155, sub-section (4) of section 245D, section 250, section 254, section 260, section 262, section 263 or section 264, the amount of tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly.”

**39. Omission of Chapter XII-C.**— Chapter XII-C of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

**40. Insertion of new Chapter XII-D.**— After section 115N of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June 1997, namely :—

#### ‘CHAPTER XII-D

#### SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES

**115-O. Tax on distributed profits of domestic companies.**— (1) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June, 1997, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to



as tax on distributed profits) at the rate of ten per cent.

(2) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on distributed profits under sub-section (1) shall be payable by such company.

(3) The principal officer of the domestic company and the company shall be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of —

- (a) declaration of any dividend; or
- (b) distribution of any dividend; or
- (c) payment of any dividend, whichever is earliest.

(4) The tax on distributed profits so paid by the company shall be treated as the final payment of tax in respect of the amount declared, distributed or paid as dividends and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(5) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the amount which has been charged to tax under sub-section (1) or the tax thereon.

**115P. Interest payable for non-payment of tax by domestic companies.**— Where the principal officer of a domestic company and the company fails to pay the whole or any part of the tax on distributed profits referred to in sub-section (1) of section 115-O, within the time allowed under sub-section (3) of that section, he or it shall be liable to pay simple interest at the rate of two per cent. for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

**115Q. When company is deemed to be in default.**— If any principal officer of a domestic company and the company does not pay tax on distributed profits in accordance with the provisions of section 115-O, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

**Explanation.**— For the purposes of this Chapter, the expression “dividends” shall have the same meaning as is given to “dividend” in clause (22) of section 2 but shall not include sub-clause (e) thereof.

**41 to 58. Amendment of Act 43 of 1961.**— [Note :— These sections amend various sections of Income-tax Act, 1961, which amendment have been incorporated in the Act].

#### Interest-tax

**59 to 60. Amendment of Act 45 of 1974.**— [Amendments to sections 4 and 21 of the Interest-tax Act, 1974 have been incorporated in the Act].

#### Expenditure-tax

**61. Amendment of Act 35 of 1987.**— Amendment to section 4 of the Expenditure-tax Act, 1987, have been incorporated in the Act].

### CHAPTER IV

#### THE VOLUNTARY DISCLOSURE OF INCOME SCHEME, 1997

**62. Short title and commencement.**— (1) This Scheme may be called the Voluntary Disclosure of Income Scheme, 1997.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**63. Definitions.**— In this Scheme, unless the context otherwise requires,—

- (a) “declarant” means a person making the declaration under sub-section (1) of section 64;
- (b) “Income-tax Act” means the Income-tax Act, 1961;
- (c) “Wealth-tax Act” means the Wealth-tax Act, 1957;
- (d) all other words and expressions used in this Scheme but not defined and defined in the Income-tax Act or the Wealth-tax Act shall have the meanings respectively assigned to them in those Acts.

**64. Charge of tax on voluntarily disclosed income.**— (1) Subject to the provisions of this Scheme, where any person makes, on or after the date of commencement of this scheme but on or before the 31st day of December, 1997, a declaration in accordance with the provisions of section 65 in respect of any income chargeable to tax under the Income-tax Act for any assessment year—

- (a) for which he has failed to furnish a return under section 139 of the Income-tax Act;
- (b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme;
- (c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise.

then, notwithstanding anything contained in the Income-tax Act or in any Finance Act, income-tax shall be charged in respect of the income so declared (such income being hereinafter referred to as the voluntarily disclosed income) at the rates specified hereunder, namely :—

- (i) in the case of a declarant, being a company or a firm, at the rate of thirty-five per cent of the voluntarily disclosed income;
- (ii) in the case of a declarant, being a person other than a company or a firm, at the rate of thirty per cent. of the voluntarily disclosed income.

(2) Nothing contained in sub-section (1) shall apply in relation to—

- (i) the income assessable for any assessment year for which a notice under section 142 or section 148 of the Income-tax Act has been served upon such person and the return has not been furnished before the commencement of this Scheme;
- (ii) the income in respect of the previous year in which a search under section 132 of the Income-tax Act was initiated or requisition under section 132A of the Income-tax Act was made, or survey under section 133 A of the Income-tax Act was carried out or in respect of any earlier previous year.

#### Section 64

(1) Even though the Assessing Officer is not the authority to entertain the application under Voluntary Disclosure of Income Scheme and under S. 64(5) and the Commissioner is the authority to receive the application, when the assessee makes the declaration to the Commissioner, but delivers it to the Assessing Officer and such officer accepts to it, then the date of application to the Commissioner should be certainly

the date of receipt by the Assessing Officer. ILR 2008 (4) Ker 835 (838).

(2) Voluntary Disclosure of Income Scheme — Receipt of 110 gold ginnis by petitioner at time of marriage from her relations — Same would at the most be consider a gift, and is not included in definition of ‘income’ — Petitioner is not entitled for consideration of her claim under VDI Scheme. 2008 (296) ITR 529 (531) : 2006 (204) Cur Tax Rep 317 (MP).

**65. Particulars to be furnished in declaration.**— (1) A declaration under sub-section (1) of section 64 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed.

(2) The declaration shall be signed, —

(a) where the declarant is an individual, by the individual himself, where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) where the declarant is a Hindu undivided family, by the karta and where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof; and

(f) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 64 in respect of his income or as a representative assessee in respect of the income of any other person, shall not be entitled to make any other declaration, under that sub-section in respect of his income or the income of such other person, and any such other declaration, if made, shall be deemed to be void.

**66. Time for payment of tax.**— The tax payable under this Scheme in respect of the voluntarily disclosed income shall be paid by the declarant and the declaration shall be

#### Section 65

(1) Under the Voluntary Disclosure of Income Scheme a declaration is sought in terms of S. 65 r/w rules. When the information given in the declaration is found to be incorrect, any certificate issued pursuant to that incorrect declaration is also an incorrect certificate. Even otherwise, when a power to issue a certificate is available, then the power to recall in the event of any fraud is always available to the authorities as otherwise it would result in encouraging the unscrupulous persons. 2003 AJR Kant HCR 2179 (2182) : 2003 Tax LR 731.

(2) Voluntary Disclosure of Income Scheme — Declaration under, by assessee firm — Amount disclosed was the same which was earlier declared by partner of firm during search and seizure conducted against him — Firm not disclosing this fact in declaration — Hence fraud being played by firm, it cannot be granted benefit under the scheme. AIR 2007 SC 2301 (2305) : 2007 AIR SCW 3994.

(3) Voluntary Disclosure Scheme — Entire tax

liability not paid within period of three months from date of declaration — Declarant not entitled to get benefit under Scheme. 2005 Tax LR 691 (692) : 2005 (5) Bom CR 701 (DB).

(4) Voluntary disclosure of income — Scheme for — Applicability of benefit to concealed income which is detected — Concealed income discovered through search or survey — Ceases to be concealed income — Assessee cannot get benefit of scheme by making declaration. 1998 Tax LR 888 (896) : 1998 (99) Taxman 500 (DB) (AP).

#### Section 66

(1) A plain reading of Ss. 66 and 67 of Voluntary Disclosure of Income Scheme introduced by Finance Act (1997) would show that the tax payable under the scheme, shall be paid within the time specified, which is the general rule provided in S. 66 namely payment prior to the making of a declaration. 2003 Tax LR 572 (576) : 2003 AIR SCW 3095. (2001 Tax LR 466 (Mad), (2001) 249 ITR 309 (Mad) and (2002) 255 ITR 60 (MP), **Overruled.**)

accompanied by proof of payment of such tax.

**67. Interest payable by declarant.**— (1) Notwithstanding anything contained in section 66, the declarant may file a declaration without paying the tax under that section and the declarant may file the declaration and the declarant may pay the tax within three months from the date of filing of the declaration with simple interest at the rate of two per cent. for every month or part of a month comprised in the period beginning from the date of filing the declaration and ending on the date of payment of such tax and file the proof of such payment within the said period of three months.

(2) If the declarant fails to pay the tax in respect of the voluntarily disclosed income before the expiry of three months from the date of filing of the declaration, the declaration filled by him shall be deemed never to have been made under this Scheme.

**68. Voluntarily disclosed income not to be included in the total income.**— (1) The amount of the voluntarily disclosed income shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the following conditions are fulfilled, namely :—

- (i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Assessing Officer; and
- (ii) the income-tax in respect of the voluntarily disclosed income is paid by the declarant within the time specified in section 66 or section 67.

(2) The Commissioner shall, on an application made by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income and the amount of income-tax paid in respect of the same.

**69. Voluntarily disclosed income not to affect finality of completed assessments, etc.**— The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of tax paid thereon, to reopen any assessment or re-assessment made under the Income-tax Act or the Wealth-tax Act or claim any set-off or relief in any appeal, reference or other proceeding in relation to any such assessment or re-assessment.

**70. Tax in respect of voluntarily disclosed income and refundable.**— Any amount of tax paid in pursuance of a declaration made under sub-section (1) of section 64 shall not be refundable under any circumstances.

#### Section 67

(1) The provision of S. 67(2) make it abundantly clear that if the declarant fails to pay the tax within the period of three months as specified the declaration filed shall be deemed never to have been made under the Scheme. 2005 Tax LR 691 : 2005 (5) Bom CR 701 (DB).

(2) Voluntary Disclosure of Income Scheme, 1997 — Payment of tax under — Delay of three days cannot be condoned by designated authority. 2004 (188) Cur Tax Rep 62 (63) : 2004 (181) Taxation 536 (Mad) \*\* 2010 (323) ITR 44 (Para 5) (DB) (Mad).

(3) A plain reading of Ss. 66 and 67 of Voluntary Disclosure of Income Scheme introduced by Finance Act (1997) would show that the tax payable under the scheme, shall be paid within the time specified, which is the general rule provided in S. 66 namely payment prior to the making of a declaration. 2003 Tax LR 572 (576) : 2003 AIR SCW 3095. (2001

Tax LR 466 (Mad), (2001) 249 ITR 309 (Mad) and (2002) 255 ITR 60 (MP), Overruled.)

#### Section 68

(1) Assessment — Notice under S. 148 — Petitioner applied under VDIS, 1997 and concerned authority after holding that petitioner was eligible, granted certificate under S. 68(2) — Amount of voluntarily disclosed income cannot be included in total income of declarant for any assessment year — Notice under S. 148 in respect of such amount — Invalid and liable to be set aside. 2006 (204) Cur Tax Rep 282 (284) : 2006 (195) Taxation 491 (DB) (Bom).

#### Section 69

(1) Voluntary disclosure of income — Scheme for — Declarant not entitled to re-open any assessment or claim any set-off in respect of voluntarily disclosed income — However, adjustment in pending assessment not barred. 1998 Tax LR 888 (899) : 1998 (99) Taxman 500 (DB) (AP).



**71. Declaration not admissible in evidence against declarant.**— Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 64 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act or the Foreign Exchange Regulation Act, 1973 or the Companies Act, 1956.

**72. Secrecy of declaration.**— (1) All particulars contained in a declaration made under sub-section (1) of section 64 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof.

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of the Income-tax Act or the Wealth-tax Act, or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds.

**73. Exemption from wealth-tax in respect of assets specified in declaration.**— (1) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets specified in the declaration made under sub-section (1) of section 64—

- (a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act for the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year or years, or
- (b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or
- (c) have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth-tax Act or any rules made thereunder,—

- (i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years;
- (ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years;
- (iii) the value of the jewellery or bullion so declared shall be taken to be its market value as on the 1st day of April, 1987, where the disclosure is made in respect of an assessment year earlier than assessment year 1987-88, and for the purpose of this Chapter the expression "jewellery" shall have the same meaning assigned to it in Explanation I to clause: (viii) of section 5 of the Wealth-tax Act.

**Explanation.**—Where a declaration under sub-section (1) of section 64 is made by a firm, the assets referred to in clause (i) or, as the case may be, amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 68 are fulfilled by the declarant.

**74. Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.**— The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 189 of that Act or Chapter V of the Wealth-tax Act relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceeding under the Income-tax Act or, as the case may be, the Wealth-tax Act.

**75. Removal of doubts.**— *For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in the Explanation to sub-section (1) of section 73, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.*

**76. Power to remove difficulties.**— (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before each House of Parliament.

**77. Power to make rules.**— (1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under sub-section (1) of section 64 and the manner in which these may be verified.

(3) The Central Government shall cause every rule made under this Scheme to be laid as soon as may be after it is made 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 both Houses agree that the rule should not be made, the rule 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.

**78. Scheme not to apply to certain persons.**— The provisions of this Scheme shall not apply—

- (a) to any person in respect of whom an order of detention have been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974;

Provided that—

- (i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

#### Section 78

(1) Where no charge-sheet was pending against the petitioner, nor was filed consequent to the investigation pending against her, nor any summons were issued by the Court as such, it cannot be said that petitioner was barred from seeking benefit of Volun-

tary Disclosure Income Scheme in view of provisions contained in S. 78(b) of the Act. 2011 Tax LR 240 (241) (DB) (Utr).

(2) S. 78 (b) does not apply when no prosecution was pending on date when UDS Scheme was sought by assessee. (2011) 334 ITR 428 (432) (DB)(Utr).

- (ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for or on the basis of the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8 read with sub-section (2) of section 9 of the said Act; or
- (iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A of the said Act; or
- (iv) such order of detention has not been set aside by a court of competent jurisdiction;
- (b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorists and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or for the purpose of enforcement of any civil liability;
- (c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transaction in Securities) Act, 1922.

## CHAPTER V INDIRECT TAXES

### Customs

**79 and 80. Amendment of Act 51 of 1975.**— Amendment to section 8 and Second Schedule of the Customs Tariff Act, 1975 incorporated in the Act].

### Excise

**81. Insertion of new section 3A.**— After section 3 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), the following section shall be inserted, namely :—

*3A. Determination of annual capacity of production of the factory for levy of Excise duty.*—(1) Notwithstanding anything contained in section 3, where the Central Government, having regard to the nature of the process of manufacture or production of excisable goods of any specified description, the extent of evasion of duty in regard to such goods or such other factors as may be relevant, is of the opinion that it is necessary to safeguard the interest of revenue, specify, by notification in the Official Gazette, such goods as notified goods and there shall be levied and collected duty of excise on such goods in accordance with the provisions of this section.

(2) Where a notification is issued under sub-section (1), the Central Government may, by rules, provide for determination of the annual capacity of production, or such factor or factors relevant to the annual capacity of production of the factory in which such goods are produced, by the Commissioner of Central Excise and such annual capacity of production shall be deemed to be the annual production of such goods by such factory :

Provided that where a factory producing notified goods is in operation only during a part of the year, the production thereof shall be calculated on proportionate basis of the annual capacity of production.

(3) The duty of excise on notified goods shall be levied at such rate as the Central

#### Section 81

(1) Where the petitioner allegedly suppressed the actual production capacity and it is noticed that the capacity of 1051 MT was determined by the Com-

missioner after introduction of S. 81 by the Finance Act, 1997, the same would not be relevant or relied upon for the period of 1994-95 and 1995-96. 2003 (157) ELT 31 (32) (DB) (Bom).

Government may by notification in the Official Gazette specify, and collected in such manner as may be prescribed :

Provided that, where a factory producing notified goods did not produce the notified goods during any continuous period of not less than seven days, duty calculated on a proportionate basis shall be abated in respect of such period if the manufacturer of such goods fulfils such conditions as may be prescribed.

(4) Where an assessee claims that the actual production of notified goods in his factory is lower than the production determined under sub-section (2), the Commissioner of Central Excise shall, after giving an opportunity to the assessee to produce evidence in support of his claim, determine the actual production and re-determine the amount of duty payable by the assessee with reference to such actual production at the rate specified in sub-section (3).

(5) Where the Commissioner of Central Excise determines the actual production under sub-section (4), the amount of duty already paid, if any, shall be adjusted against the duty so re-determined and if the duty already paid falls short of, or is in excess of, the duty so re-determined, the assessee shall pay the deficiency or be entitled to a refund, as the case may be.

(6) The provisions of this section shall not apply to goods produced or manufactured,—

(i) in a free trade zone and brought to any other place in India; or

(ii) by a hundred per cent. export-oriented undertaking and allowed to be sold in India.

**Explanation 1.**— For the removal of doubts, it is hereby clarified that for the purposes of section 3 of the Customs Tariff Act, 1975, the duty of excise leviable on the notified goods shall be deemed to be the duty of excise leviable on such goods under the Schedule to the Central Excise Tariff Act, 1985, read with any notification for the time being in force.

**Explanation 2.**— For the purposes of this section the expressions “free trade zone” and “hundred per cent. export-oriented undertaking” shall have the meanings assigned to them in section 3.’

**82. Insertion of new section 4A.**—After section 4 of the Central Excise Act, the following section shall be inserted, namely :—

*4A. Valuation of excisable goods with reference to retail sale price.*—(1) The Central Government may, by notification in the Official Gazette, specify any goods, in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such goods, to which the provisions of sub-section (2) shall apply.

(2) Where the goods specified under sub-section (1) are excisable goods and are chargeable to duty of excise with reference to value, then, notwithstanding anything contained in section 4, such value shall be deemed to be the retail sale price declared on such goods less such amount of abatement, if any, from such retail sale price as the Central Government may allow by notification in the Official Gazette.

(3) The Central Government may, for the purpose of allowing any abatement under sub-section (2), take into account the amount of duty of excise, sales tax and other taxes, if any, payable on such goods.

**Explanation 1.**— For the purpose of this section, “retail sale price” means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers,



and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be.

**Explanation 2.**— Where on any excisable goods more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

**83. Insertion of new section 14AA.**— After section 14A of the Central Excise Act, the following section shall be inserted, namely :—

*14AA. Special audit in cases where credit of duty availed or utilised is not within the normal limits, etc.*—(1) If the Commissioner of Central Excise has reason to believe that the credit of duty availed of or utilised under the rules made under this Act by a manufacturer of any excisable goods—

- (a) is not within the normal limits having regard to the nature of the excisable goods produced or manufactured, the type of inputs used and other relevant factors, as he may deem appropriate.
- (b) has been availed of or utilised by reason of fraud, collusion or any wilful mis-statement or suppression of facts,

he may direct such manufacturer to get the accounts of his factory, office, depot, distributor or any other place, as may be specified by him, audited by a cost accountant nominate by him.

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

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the said manufacturer 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 remuneration of the cost accountant) shall be determined by the Commissioner of Central Excise (which determination shall be final) and paid by the manufacturer and in default of such payment shall be recoverable from the manufacturer in the manner provided in section 11 for the recovery of sums due to the Government.

(5) The manufacturer shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in any proceeding 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.

**84. Amendment of section 38.**— In section 38 of the Central Excise Act, in sub-section (2), after the words “every notification issued under”, the words, figures and letters “section 3A, section 4A” shall be inserted.

**85. 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 Third Schedule.

**86. 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 Fourth Schedule.

**87. Provisions as to duties of excise on specified petroleum products in relation to a certain period and validation.**— (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 240(E), dated the 3rd day of May, 1997, which was issued in exercise of the powers conferred by rule 57A of the Central Excise Rules, 1944, to restrict credit of duties paid on specified petroleum products used as inputs in the manufacture of final products shall,—

(a) be deemed to have, and to have always had, effect on and from the 23rd day of July, 1996; and

(b) be deemed to prevail, and to have always prevailed, over all notifications issued on or after the 23rd day of July, 1996, but before the 3rd day of May, 1997, under rule 57A of the said rules in relation to specified petroleum products.

**Explanation.**— For the purposes of this section, “specified petroleum products” means naphtha, furnace oil, low sulphur heavy stock, light diesel oil, bitumen and paraffin wax falling under Chapter 27 of the Schedule to the Central Excise Tariff Act, 1985.

(2) Any action or thing taken or done or purported to have been taken or done on or after the 23rd day of July, 1996 and before the 3rd day of May, 1997, in relation to specified petroleum products, under the Central Excise Rules, 1944, read with notifications referred in clause (b) of sub-section (1), shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the provisions of sub-section (1) had been in force at all material times and such action or thing had been taken or done under the Central Excise Rules, 1944, read with the notification dated the 3rd day of May, 1997, referred to in sub-section (1), and, accordingly, notwithstanding contained in any judgment, decree or order of any Court, tribunal or other authority,—

(a) credit of duties restricted on or after the 23rd day of July, 1996, and before the 3rd day of May, 1997 on specified petroleum products, shall be deemed to be, and shall be deemed to have always been, as validly restricted, as if the provisions of this section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court for allowing the credit; and no enforcement shall be made by any Court of any decree or order allowing the credit, of duties which have been restricted and which would have been validly restricted if the provisions of this section had been in force at all material times;

(c) recovery shall be made of the credit of duties, which have not been restricted but which would have been so restricted if the provisions of this section had been in force at all material times, within a period of ninety days from the date of enactment of this Bill and in the event of non-payment of such credit of duties within this period, in addition to the amount of credit of such duties recoverable, interest at the rate of eighteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of ninety days till the date of payment.

**Explanation.**— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

## CHAPTER VI

### SERVICE TAX

**88. Amendment of Act 32 of 1994.**— In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) for S. 65, the following section shall be substituted, namely :—

“65. *Definitions.*— In this Chapter, unless the context otherwise requires,—

- (1) 'advertisement' includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;
- (2) 'advertising agency' means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;
- (3) 'air travel agent' means any person engaged in providing any service connected with the booking of passage for travel by air;
- (4) 'Appellate Tribunal' means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;
- (5) 'assessee' means a person responsible for collecting the service tax and includes his agent;
- (6) 'Board' means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;
- (7) 'cab' means a motor cab or maxi cab;
- (8) 'caterer' means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;
- (9) 'Central Excise Officer' has the meaning assigned to it in clause (b) of section 2 of the Central Excise Act, 1944;
- (10) 'clearing and forwarding agent' means any person who is engaged in providing any service, either directly or indirectly, connected with clearing and forwarding operations in any manner to any other person and includes a consignment agent;
- (11) "consulting engineer" means any professionally qualified engineer or in engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;
- (12) "courier agency" means a commercial concern engaged in the door-to-door transportation of time sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.
- (13) "customs house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962;
- (14) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972;
- (15) "goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930;
- (16) "goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988;
- (17) "goods transport operator" means any commercial concern engaged in the transportation of goods but does not include a courier agency;
- (18) "insurer" means any person carrying on the general insurance business in India;
- (19) "mandap" means any immovable property as defined in Section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social or business function;
- (20) "mandap keeper" means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;
- (21) "manpower recruitment agency" means any commercial concern engaged in pro-

viding any service, directly or indirectly, in any manner for recruitment of manpower, to a client;

(22) "taxi cab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988;

(23) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988;

(24) "outdoor caterer" means a caterer engaged in providing services in connection with catering at a place other than his own;

(25) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;

(26) "pandal or shamiana" means a place specially prepared or arranged for organising an official, social or business function;

(27) "pandal or shamiana contractor" means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for use therein;

(28) "person responsible for collecting the service tax" means a person who is required to collect service tax under this Chapter or is required to pay any other sum of money under this Chapter and includes every person in respect of whom any proceedings under this Chapter have been taken;

(29) "policy-holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938;

(30) "prescribed" means prescribed by rules made under this Chapter;

(31) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;

(32) "rent-a-cab scheme operator" means a person who is the holder of a licence under the Rent-a-Cab Scheme, 1989 framed by the Central Government under the Motor Vehicles Act, 1988;

(33) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

(34) "service tax" means tax chargeable under the provisions of this Chapter;

(35) "ship" means a sea-going vessel and includes a sailing vessel;

(36) "shopping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(37) "steamer agent" means any person who undertakes, either directly or indirectly,—  
(a) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(b) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(c) to provide container feeder services for or on behalf of a shipping line;

(38) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;



(39) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

(40) "subscriber" means a person to whom a telephone connection or pager has been provided by the telegraph authority;

(41) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber, by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisements in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice consultancy or technical assistance in any manner in one or more disciplines of engineering;

(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the loading, advertising or canvassing of cargo, including container feeder services;

(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower in any manner;

(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(m) to a customer, by a goods transport operator in relation to carriage of goods by road in a goods carriage;

(n) to a client, by an outdoor caterer;

(o) to a client, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, rendered as a caterer;

(p) to a client by a mandap keeper in relation to the use of a mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(q) to any person, by a tour operator in relation to a tour;

(r) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

(42) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(43) "tour" means a journey from one place to another irrespective of the distance between such places;

(44) "tour operator" means a person who holds a tourist permit granted under the rules

made under the Motor Vehicles Act, 1988;

(45) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise.;

(2) for section 66, the following section shall be substituted, namely :—

“66. Charge of service tax.— (1) On and from the date of commencement of this Chapter, there shall be charged a tax (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (a), (b) and (d) of clause 41 of section 65 which are provided to any person by the person responsible for collecting the service tax.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996, there shall be charged a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (41) of section 65 which are provided to any, person by the person responsible for collecting the service tax.

(3) With effect from the date notified under section 84 of the Finance Act, 1997, there shall be charged a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n) (o), (p), (q) and (r) of clause (41) of section 65 which are provided to any person by the person responsible for collecting the service tax.”;

(3) in section 67, after clause (e), the following clauses shall be inserted, namely :—

“(f) in relation to service provided by a consulting engineer to a client shall be the gross amount charged by such engineer from the client for advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(g) in relation to service provided by a custom house agent to a client, shall be the gross amount charged by such agent from the client for services rendered in any manner in relation to the entry or departure of conveyances or in relation to the import or export of goods;

(h) in relation to service provided by a steamer agent to a shipping line, shall be the gross amount charged by such agent from the shipping line for service in relation to a ship's husbandry or dispatch or any administrative work related thereto or in relation to the booking, advertising or canvassing of cargo, container feeder services, including the commission paid to such agent;

(i) in relation to service provided by a clearing and forwarding agent to a client, shall be the gross amount charged by such agent from the client for service of clearing and forwarding operations in any manner;

(j) in relation to service provided by a manpower recruitment agency to a client, shall be the gross amount charged by such agency from the client in relation to the recruitment of manpower in any manner;

(k) in relation to service provided by an air travel agent to a customer, shall be the gross amount charged by such agent from the customer for services in relation to the booking of passage for travel by air excluding the airfare but including the commission, if any, received from the airline in relation to such booking;

(l) in relation to service provided by goods transport operator to a customer, shall be the gross amount charged by such operator for services in relation to carrying goods by road in a goods carriage and includes the freight charges but does not include any insurance charges;

- (m) in relation to service provided by an outdoor caterer to client, shall be the gross amount charged by such caterer, from the client for services in relation to such catering including the charges for food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements provided to such client for any purpose or on any occasion;
- (n) in relation to service provided by a pandal or shamiana contractor to a client, shall be the gross amount charged by such contractor from the client for services in relation to the setting up of a pandal or shamiana including the supply of furniture, fixtures, lights and lighting fittings, floor coverings and similar articles used therein and also the charges for catering, if any;
- (o) in relation to service provided by a mandap keeper to a client, shall be the gross amount charged by such keeper from the client for the use of mandap including the facilities provided to the client in relation to such use and also the charges for catering, if any;
- (p) in relation to service provided by a tour operator to a client, shall be the gross amount charged by such operator from the client for services in relation to a tour and includes the charges for any accommodation food or any other facilities provided in relation to such tour;
- (q) in relation to the service provided by a rent-a-cab scheme operator to any person, shall be the gross amount charged by such operator from such person for service in relation to the renting of a cab and includes such rental.”;

(4) for section 68, the following section shall be substituted, namely :—

“68. *Collection and recovery of service tax.*—(1) Every person providing taxable service to any person shall collect the service tax at the rate specified in section 66.

(1A) Notwithstanding anything contained in sub-section (1) of section 68, in respect of the taxable service referred to in items (g) to (r) of sub-clause (41) of section 65, the service tax for such service shall be collected from such person shall and in such manner as may be prescribed at the rate specified in section 66 and all the provisions of this Chapter shall apply to such person as if he is the person responsible for collecting the service tax in relation to such service.

(2) The service tax collected during any calendar month in accordance with the provisions of sub-section (1) or sub-section (1A), as the case may be, shall be paid to the credit of the Central Government by the 15th of the month immediately following the said calendar month.

(3) Any person responsible for collecting the service tax, who fails to collect the tax in accordance with the provisions of sub-section (1) or sub-section (1A), as the case may be, shall, notwithstanding such failure, be liable to pay such tax to the credit of the Central Government within seventy-five days from the end of the month in which the service was rendered.”;

(5) in section 76,—

- (i) in the opening portion, for the words, brackets and figures “sub-section (1) of section 68,” the words, brackets, figures and letter “sub-section (1) or sub-section (1A) of section 68, as the case may be,” shall be substituted;
- (ii) in clause (b), for the word, brackets and figure “sub-section (2)”, the words, brackets and figures “sub-section (2) or who fails to pay the service tax in accordance with sub-section (3)” shall be substituted;
- (iii) in clause (ii), for the words, brackets and figure “sub-section (2)”, the words, brackets and figures “sub-section (2) or, as the case may be, sub-section (3)” shall be substituted.

**CHAPTER VII**  
**MISCELLANEOUS**

**89. Amendment of Act 6 of 1898.**— [This section amends First Schedule of the Indian Post Office Act, 1898, which have been incorporated in the Act].

**90. Amendment of Act 52 of 1963.**— In the Unit Trust of India Act, 1963, in section 32, sub-section (3) shall be omitted with effect from the 1st day of June, 1997.

**THE FIRST SCHEDULE**

(See section 2)

**PART I**  
**INCOME-TAX**

**Paragraph A**

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

**Rates of Income-tax**

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 40,000                          | Nil;   |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000   | 15 per cent. of the amount by which the total income exceeds Rs. 40,000;                   |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 60,000;    |
| (4) where the total income exceeds Rs. 1,20,000                                | Rs. 21,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 1,20,000. |

**Paragraph B**

In the case of every co-operative society,—

**Rates of Income-tax**

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs. 10,000.                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000. | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

**Paragraph C**

In the case of every firm,—

**Rate of Income-tax**

On the whole of the total income                      40 per cent.

**Paragraph D**

In the case of every local authority,—

**Rate of Income-tax**

On the whole of the total income                      30 per cent.

**Paragraph E**

In the case of a company,—

**Rates of income-tax**

- |                                      |                                   |
|--------------------------------------|-----------------------------------|
| 1. In the case of a domestic company | 40 per cent. of the total income; |
|--------------------------------------|-----------------------------------|



II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976.

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income 55 per cent.

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the provisions of this Paragraph or sections 112 and 113 of the Income-tax Act, shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

**PART II**

**RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES**

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates :—

	Rate of Income-tax
I. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and cross-word puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or a State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956, and any rules made thereunder.	
(vi) on any other income	20 per cent.;

- (b) where the person is not resident in India—
- (i) in the case of a non-resident Indian—
- |   |  |
|---|--|
| (A) on any investment income  | 20 per cent.;  |
| (B) on income by way of long-term capital gains referred to in section 115E   | 10 per cent.;  |
| (C) on other income by way of long-term capital gains   | 20 per cent.;  |
| (D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency | 20 per cent.;  |
| (E) on income by way of winnings from lotteries and cross-word puzzles  | 40 per cent.;  |
| (F) on income by way of winnings from horse races   | 40 per cent.;  |
| (G) on the whole of other income  | income-tax at 30 per cent. of the amount of income;<br>or<br>income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of the Schedule, if such income had been the total income which is higher; |
- (ii) in the case of any other person,—
- |   |  |
|---|--|
| (A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency | 20 per cent.;  |
| (B) on income by way of winnings from lotteries and crossword puzzles   | 40 per cent.;  |
| (C) on income by way of winnings from horse races   | 40 per cent.;  |
| (D) on income by way of long-term capital gains   | 20 per cent.;  |
| (E) on the whole of the other income  | income-tax at 30 per cent. of the amount of income,<br>or<br>income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher; |
2. In the case of a company—
- (a) where the company is a domestic company—
- |   |               |
|---|---------------|
| (i) on income by way of interest other than "Interest on securities"    | 20 per cent.; |
| (ii) on income by way of winnings from lotteries and cross-word puzzles | 40 per cent.; |
| (iii) on income by way of winnings from horse races                     | 40 per cent.; |
| (iv) on any other income  | 20 per cent.; |
- (b) where the company is not a domestic company—

- (i) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;
- (ii) on income by way of winnings from horse races 40 per cent.;
- (iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;
- (iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of Section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of Section 115A of the Income-tax Act, to a person resident in India.
- (A) where the agreement is made before the 1st day of June, 1997 30 per cent.;
- (B) where the agreement is made on or after the 1st day of June, 1997 20 per cent.;
- (v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b) (iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
- (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976. 50 per cent.;
- (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997. 30 per cent.;
- (C) where the agreement is made on or after the 1st day of June, 1997. 20 per cent.;
- (vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—
- (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976. 50 per cent.;
- (B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997. 30 per cent.;
- (C) where the agreement is made on or after the 1st day of June, 1997 20 per cent.;
- (vii) on income by way of long-term capital gains 20 per cent.;
- (viii) on any other income 48 per cent.;

**Explanation.**— For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

### PART III

#### RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head “Salaries” or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section] shall be calculated, charged, deducted or computed at the following rate or rates :—

#### Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

#### Rates of income-tax

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 40,000                          | Nil;   |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000   | 10 per cent. of the amount by which the total income exceeds Rs. 40,000;                   |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 2,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000;    |
| (4) where the total income exceeds Rs. 1,50,000                                | Rs. 20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000; |

#### Paragraph B

In the case of every co-operative society,—

#### Rates of income-tax

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs. 10,000.                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000. | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

#### Paragraph C

In the case of every firm,—

#### Rates of Income-tax

On the whole of the total income 35 per cent.

#### Paragraph D

In the case of every local authority,—

#### Rates of Income-tax

On the whole of the total income 30 per cent.



## Paragraph E

In the case of a company,—

## Rates of Income-tax

- I. In the case of a domestic company 35 per cent. of the total income;
- II. In the case of a company other than a domestic company—
- (i) on so much of the total income as consists of—
- (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or
- (b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976.
- and where such agreement has, in either case, been approved by the Central Government 50 per cent.;
- (ii) on the balance, if any of the total income 48 per cent.;

## PART IV

[See section 2(10)(c)]

## RATES FOR COMPUTATION OF NET AGRICULTURAL INCOME

**Rule 1.**— Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly :

Provided that sub-section (2) of section 58 shall subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

**Rule 2.**— Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act (other than income derived from any building required as a dwelling house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)) shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provision of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

**Rule 3.**— Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of the Act shall, so far as may be, apply accordingly.

**Rule 4.**— Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

**Rule 5.**— Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

**Rule 6.**— Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income :

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

**Rule 7.**— Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

**Rule 8.**— (1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1997, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1989 or the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996, is a loss, then, for the purposes to sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1997.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997, is a loss, than, for the purpose of sub-section (9) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1<sup>st</sup> day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1<sup>st</sup> day of April, 1997,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1998.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1), or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the

First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance Act (No. 2) Act, 1996 (33 of 1996), shall be set off under sub-rule (1), or, as the case may be, sub-rule (2).

**Rule 9.**— Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

**Rule 10.**— The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288 A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

**Rule 11.**— For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

### THE SECOND SCHEDULE

(See section 80)

This Schedule amends various Chapters of the Customs Tariff Act, 1975, which have been incorporated in the principal Act.

### THE THIRD SCHEDULE

(See section 85)

This Schedule amends various Chapters of Central Excise Tariff Act, 1985, which have been incorporated in the principal Act.

### THE FOURTH SCHEDULE

(See section 86)

This Schedule amends various entries in the First Schedule of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, which have been incorporated in the principal Act.