

CHAPTER III

DIRECT TAXES

Income-tax

3. In section 2 of the Income-tax Act,—

Amendment of
section 2.

50 (a) in clause (1B), in sub-clause (iii), for the words “nine-tenths”, the words “three-fourths” shall be substituted with effect from the 1st day of April, 2000;

(b) in clause (14), after sub-clause (v), the following sub-clause shall be inserted with effect from the 1st day of April, 2000, namely:—

55 “(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government;”;

(c) after clause (19A), the following clauses shall be inserted with effect from the 1st day of April, 2000, namely:–

“(19AA) “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, by a demerged company of its one or more undertakings to any resulting company in such a manner that– 5 1 of 1956.

(i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(ii) all the liabilities relating to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of 10 the demerger;

(iii) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;

(iv) the resulting company issues, in consideration of the demerger, its shares to the 15 shareholders of the demerged company on a proportionate basis;

(v) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become shareholders of the resulting 20 company or companies by virtue of the demerger,

otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(vi) the transfer of the undertaking is on a going concern basis;

(vii) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A by the Central Government in this behalf. 25

Explanation 1.–For the purposes of this clause, “undertaking” shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.

Explanation 2.–For the purposes of this clause, the liabilities referred to in sub-clause (ii), 30 shall include–

(a) the liabilities which arise out of the activities or operations of the undertaking;

(b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(c) in cases, other than those referred to in clause (a) or clause (b), so much of the amounts 35 of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

Explanation 3.–For determining the value of the property referred to in sub-clause (iii), any change in the value of assets consequent to their revaluation shall be ignored. 40

Explanation 4.–For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction fulfils the conditions specified in sub-clauses (i) to (vii) of this clause, to the extent applicable; 45

(19AAA) “demerged company” means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;”;

(d) in clause (22), after sub-clause (iii) and before *Explanation 1*, the following sub-clauses shall be inserted with effect from the 1st day of April, 2000, namely:–

“(iv) any payment made by a company on purchase of its own shares from a shareholder in 50 accordance with the provisions of section 77A of the Companies Act, 1956; 1 of 1956.

(v) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).”;

(e) in clause (30), after the word “resident”, the words, figures and brackets “, and for the purposes 55

of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of clause (6) of section 6" shall be inserted;

(f) after clause (41), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

5 '(41A) "resulting company" means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;';

10 (g) in clause (42A), in *Explanation 1*, after sub-clause (f), the following sub-clause shall be inserted with effect from the 1st day of April, 2000, namely:—

15 "(g) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee;";

(h) after clause (42B), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

20 '(42C) "slump sale" means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

Explanation 1.—For the purposes of this clause, "undertaking" shall have the meaning assigned to it in *Explanation 1* to clause (19AA).

25 *Explanation 2.*—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities.'

4. For section 3 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2000, namely:— Substitution of new section for section 3.

30 '3. For the purposes of this Act, "previous year" means the financial year immediately preceding the assessment year: "Previous year" defined.

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.'

35 5. In section 9 of the Income-tax Act, in sub-section (1), in clause (ii), for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of April, 2000, namely:— Amendment of section 9.

"*Explanation.*—For the removal of doubts, it is hereby declared that the income of the nature referred to in this clause payable for—

40 (a) service rendered in India; and
(b) the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment,
shall be regarded as income earned in India."

6. In section 10 of the Income-tax Act,—

45 (a) in clause (5B), the words, brackets, figures and letter " or sub-clause (vii) of clause (6)" shall be omitted; Amendment of section 10.

(b) in clause (6BB), for the words, figures and letters "after the 31st day of March, 1997", the words, figures and letters "after the 31st day of March, 1997 but before the 1st day of April, 1999" shall be substituted with effect from the 1st day of April, 2000;

50 (c) in clause (10AA), in sub-clause (ii), for the words "eight months", the words "ten months" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(d) in clause (15), with effect from the 1st day of April, 2000,—

55 (i) in sub-clause (iv), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1*, as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—For the purposes of this clause, the expression “interest” includes hedging transaction charges on account of currency fluctuation.’;

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

“(vi) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government;”;

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(e) in clause (15A), for the words, figures and letters “entered before the 1st day of April, 1997”, the words, figures and letters “, not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999,” shall be substituted with effect from the 1st day of April, 2000;

(f) after clause (17A), the following shall be inserted with effect from the 1st day of April, 2000, 10 namely:—

‘(18) any income by way of—

(i) pension received by an individual who has been in the service of the Central or State Government and has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award as the Central Government may, by notification in the Official 15 Gazette, specify in this behalf;

(ii) family pension received by any member of the family of an individual referred to in sub-clause (i).

Explanation.—For the purposes of this clause, the expression “family” shall have the meaning assigned to it in the *Explanation* to clause (5).’;

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(g) in clause (23C), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that the Central Government, before notifying the fund or trust or institution, or the prescribed authority, before approving any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or 25 information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the Central Government or the prescribed authority, as the case may be, 30 may also make such inquiries as it deems necessary in this behalf.”;

(h) in clause (23D), for the words “any income of—”, the words, figures and letter “subject to the provisions of Chapter XII-E, any income of—” shall be substituted with effect from the 1st day of April, 2000;

(i) in clause (23F), after the second proviso and before the *Explanation*, the following proviso 35 shall be inserted with effect from the 1st day of April, 2000, namely:—

“Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.”;

(j) after clause (23F), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:—

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‘(23FA) any income by way of dividends, other than dividends referred to in section 115-O, or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking:

Provided that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the 45 rules made in this behalf and which satisfies the prescribed conditions:

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

Explanation.—For the purposes of this clause,—

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(a) “venture capital fund” means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908, established to raise monies by the trustees for

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

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

(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(i) business of—

(A) software;

10 (B) information technology;

(C) production of basic drugs in the pharmaceutical sector;

(D) bio-technology;

(E) agriculture and allied sectors; or

(F) such other sectors as may be notified by the Central Government in this behalf; or

15 (ii) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology;';

(k) in clause (23G), with effect from the 1st day of April, 2000,—

20 (A) for the words "the business of developing, maintaining and operating", the words, brackets and figures "the business of (i) developing, (ii) maintaining and operating, or (iii) developing, maintaining and operating" shall be substituted;

(B) in the *Explanation*, in clause (c),—

(i) in sub-clause (i), for the word, brackets, figure and letter "sub-section (4A)", the words, brackets and figures "sub-clause (i) of sub-section (4)" shall be substituted;

25 (ii) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

"(ii) an industrial undertaking which—

(a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2003;

30 (b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending on the 31st day of March, 2003;";

(C) for sub-clause (iv), the following sub-clauses shall be substituted, namely:—

35 "(iv) a project for housing which fulfils the conditions specified in sub-section (10) of section 80-IB;

(v) an undertaking for developing, developing and operating or maintaining and operating an industrial park notified by the Central Government under clause (iii) of sub-section (4) of section 80-IA;";

(l) after clause (29), the following clause shall be inserted, namely:—

40 '(29A) any income accruing or arising to—

7 of 1942. (a) the Coffee Board constituted under section 4 of the Coffee Act, 1942 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

24 of 1947. 45 (b) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

29 of 1953. 50 (c) the Tea Board established under section 4 of the Tea Act, 1953 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(d) the Tobacco Board constituted under the Tobacco Board Act, 1975 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later; 4 of 1975.

(e) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later; 5 13 of 1972.

(f) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later; 10 2 of 1986.

(g) the Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later; 15 10 of 1986.

(m) for clause (33), the following clause shall be substituted with effect from the 1st day of April, 2000, namely:—

“(33) any income by way of—

(i) dividends referred to in section 115-O; or 20

(ii) income received in respect of units from the Unit Trust of India established under the Unit Trust of India Act, 1963; or 52 of 1963.

(iii) income received in respect of the units of a mutual fund specified under clause (23D);”.

Insertion of new section 10C.

7. After section 10B of the Income-tax Act, the following section shall be inserted, namely:—

Special provision in respect of certain industrial undertakings in North-Eastern Region.

‘10C. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region (hereafter in this section referred to as the industrial undertaking) shall not be included in the total income of the assessee. 25

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:— 30

(i) it is not formed by the splitting up, or the reconstruction of, a business already in existence:

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section; 35

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section. 40

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things. 45

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year,—

(i) section 32, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction; 50 55

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and

5 (iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

10 (5) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80-IB, as the case may be.

15 (6) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years.

Explanation.—For the purposes of this section,—

20 (i) “Integrated Infrastructure Development Centre” means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section;

(ii) “Industrial Growth Centre” means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

25 (iii) “North-Eastern Region” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(iv) “relevant assessment years” means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.’.

8. In section 12A of the Income-tax Act, the words “Chief Commissioner or”, wherever they occur, shall be omitted with effect from the 1st day of June, 1999. Amendment of section 12A.

30 9. In section 12AA of the Income-tax Act, with effect from the 1st day of June, 1999,— Amendment of section 12AA.

(a) in sub-section (1), the words “Chief Commissioner or” shall be omitted;

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

35 “(1A) All applications, pending before the Chief Commissioner on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Commissioner and the Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.”.

10. In section 17 of the Income-tax Act, in clause (2), after sub-clause (iii), the following sub-clause shall be inserted with effect from the 1st day of April, 2000, namely:— Amendment of section 17.

40 ‘(iiia) the value of any specified security allotted or transferred, directly or indirectly, by any person free of cost or at concessional rate, to an individual who is or has been in employment of that person:

Provided that in a case where allotment or transfer of specified securities is made in pursuance of an option exercised by an individual, the value of the specified securities shall be taxable in the previous year in which such option is exercised by such individual.

45 *Explanation.*—For the purposes of this clause,—

(a) “cost” means the amount actually paid for acquiring specified securities and where no money has been paid, the cost shall be taken as *nil*;

42 of 1956.

50 (b) “specified security” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes employees’ stock option and sweat equity shares;

(c) “sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called; and

55 (d) “value” means the difference between the fair market value and the cost for acquiring specified securities.’.