Amendment of section 24.

11. In section 24 of the Income-tax Act, in sub-section (*2*), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2000, namely:–

'Provided further that where the property is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st day of April, 2001, the provisions of the first proviso shall have effect as if for the words "thirty thousand rupees", the words "seventy-five thousand rupees" had been substituted.'.

Amendment of section 32.

12. In section 32 of the Income-tax Act, in sub-section (*1*), in clause (*ii*), for the fourth proviso, the following proviso shall be substituted with effect from the 1st day of April, 2000, namely:–

"Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the predecessor and the successor in the case of succession referred to in clause (*xiii*) and clause (*xiv*) of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.".

Amendment of section 33ABA.

13. In section 33ABA of the Income-tax Act, in sub-section (*7*), the proviso shall be omitted.

Amendment of section 33AC.

14. In section 33AC of the Income-tax Act, in sub-section (*3*), in clause (*c*), for the words "sold or otherwise transferred", the words "sold or otherwise transferred, other than in any scheme of demerger" shall be substituted with effect from the 1st day of April, 2000.

Amendment of section 35.

15. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2000,–

(*a*) in sub-section (*1*),–

(*i*) in clause (*ii*),–

(*A*) for the words "any sum paid", the words "an amount equal to one and one-fourth times of any sum paid" shall be substituted;

(*B*) in the proviso, for the words "prescribed authority", the words "Central Government" shall be substituted;

(*ii*) in clause (*iii*),–

(*A*) for the words "any sum paid", the words "an amount equal to one and one-fourth times of any sum paid" shall be substituted;

(*B*) in the proviso, for the words "prescribed authority", the words "Central Government" shall be substituted;

(*iii*) after clause (*iv*), in the first proviso, second proviso and third proviso, for the words "prescribed authority" , wherever they occur, the words "Central Government" shall be substituted;

(*b*) in sub-section (*2AB*), in clause (*5*), for the figures "2000", the figures "2005" shall be substituted;

(*c*) for sub-section (*3*), the following sub-section shall be substituted, namely:–

"(*3*) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to–

(*a*) the Central Government, when such question relates to any activity under clauses (*ii*) and (*iii*) of sub-section (*1*), and its decision shall be final;

(*b*) the prescribed authority, when such question relates to any activity other than the activity specified in clause (*a*), whose decision shall be final.".

Amendment of section 35A.

16. In section 35A of the Income-tax Act, after sub-section (*6*), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:–

"(*7*) Where in a scheme of demerger, the demerged company sells or otherwise transfers the rights to the resulting company (being an Indian company),–

(*i*) the provisions of sub-sections (*3*) and (*4*) shall not apply in the case of the demerged company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the latter had not sold or otherwise transferred the rights.".

17. In section 35AB of the Income-tax Act, after sub-section (*2*), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:– Amendment of section 35AB.

"(*3*) Where there is a transfer of an undertaking under a scheme of amalgamation or demerger and the amalgamating or the demerged company is entitled to a deduction under this section, then, the amalgamated company or the resulting company, as the case may be, shall be entitled to claim deduction under this section in respect of such undertaking to the same extent and in respect of the residual period as it would have been allowable to the amalgamating company or the demerged company, as the case may be, had such amalgamation or demerger not taken place.".

18. In section 35ABB of the Income-tax Act,– Amendment of section 35ABB.

(*a*) in sub-section (*1*), for the words "for acquiring any right to operate telecommunication services", the words "for acquiring any right to operate telecommunication services either before the commencement of the business to operate telecommunication services or thereafter at any time during any previous year" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996;

(*b*) in the *Explanation* to sub-section (*1*), for clause (*i*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:–

'(*i*) "relevant previous years" means,–

(*A*) in a case where the licence fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(*B*) in any other case, the previous years beginning with the previous year in which the licence fee is actually paid,

and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;';

(*c*) after sub-section (*6*), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:–

"(*7*) Where, in a scheme of demerger, the demerged company sells or otherwise transfers the licence to the resulting company (being an Indian company),–

(*i*) the provisions of sub-sections (*2*), (*3*) and (*4*) shall not apply in the case of the demerged company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company if the latter had not transferred the licence.";

(*d*) after sub-section (*7*), as so inserted, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely:–

"(*8*) Where a deduction for any previous year under sub-section (*1*) is claimed and allowed in respect of any expenditure referred to in that sub-section, no deduction shall be allowed under sub-section (*1*) of section 32 for the same previous year or any subsequent previous year.".

19. In section 35D of the Income-tax Act, after sub-section (*5*), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:– Amendment of section 35D.

"(*5A*) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period specified in sub-section (*1*), to another company in a scheme of demerger,-

(*i*) no deduction shall be admissible under sub-section (*1*) in the case of the demerged company for the previous year in which the demerger takes place; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.".

20. After section 35D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:– Insertion of new section 35DD.

"35DD. (*1*) Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place. Amortisation of expenditure in case of amalgamation or demerger.

(*2*) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (*1*) under any other provision of this Act.".

Amendment of section 35E.

21. In section 35E of the Income-tax Act, after sub-section (*7*), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:–

"(*7A*) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period of ten years specified in sub-section (*1*), to another Indian company in a scheme of demerger,–

(*i*) no deduction shall be admissible under sub-section (*1*) in the case of the demerged company for the previous year in which the demerger takes place; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the demerger had not taken place.".

Amendment of section 36.

22. In section 36 of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of April, 2000,–

(*a*) clause (*iia*) shall be omitted;

(*b*) in clause (*viia*), in sub-clause (*a*), the following shall be inserted, namely:–

'Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent. of the amount of such assets shown in the books of account of the bank on the last day of the previous year.

Explanation.–For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005.';

(*c*) in clause (*viii*),–

(*i*) the first proviso shall be omitted;

(*ii*) in the second proviso, for the words "Provided further that", the words "Provided that" shall be substituted;

(*d*) after clause (*x*), the following shall be inserted, namely:–

'(*xi*) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system:

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act:

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.– For the purposes of this clause,–

(*a*) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(*b*) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century.'.

Amendment of section 40A.

23. In section 40A of the Income-tax Act, for sub-section (*7*), the following sub-section shall be substituted with effect from the 1st day of April, 2000, namely:–

"(*7*) (*a*) Subject to the provisions of clause (*b*), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason;

(*b*) Nothing in clause (*a*) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.

Explanation.-For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid.".

Amendment of section 41.

24. In section 41 of the Income-tax Act, in sub-section (*1*), in *Explanation* 2, after clause (*iii*), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:–

"(*iv*) where there has been a demerger, the resulting company.".

Amendment of section 42.

25. In section 42 of the Income-tax Act, in sub-section (*2*), in clause (*c*), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2000, namely:–

"Provided that where in a scheme of amalgamation or demerger, the amalgamating or the demerged company sells or otherwise transfers the business to the amalgamated or the resulting company (being an Indian company), the provisions of this sub-section–

(*i*) shall not apply in the case of the amalgamating or the demerged company; and

(*ii*) shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the latter had not transferred the business or interest in the business.".

Amendment of section 43.

26. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2000,–

(*a*) in clause (*1*),-

(*i*) after *Explanation* 7, the following *Explanation* shall be inserted, namely:–

"*Explanation* 7A.–Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business:

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.";

(*ii*) after *Explanation* 10, the following *Explanation* shall be inserted, namely:-

"Explanation 11.–Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.";

(*b*) in clause (*6*),–

(*i*) in sub-clause (*c*), in item (*i*), after sub-item (*B*), the following sub-item shall be inserted, namely:–

"(*C*) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced–

(*a*) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

11 of 1922.

(*b*) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets,

so, however, that the amount of such decrease does not exceed the written down value;";

(*ii*) after *Explanation* 2, the following *Explanations* shall be inserted, namely:–

"*Explanation* 2A.–Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (*1*), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the book value of the assets transferred to the resulting company pursuant to the demerger.

Explanation 2B.–Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (*1*), the written down value of the block of assets in the case of the resulting company shall be the value of the assets as appearing in the books of account of the demerged company immediately before the demerger:

Provided that if the value of the assets as appearing in the books of account of the demerged company immediately before the demerger exceeds the written down value of such assets in the hands of the demerged company, the amount representing such excess shall be reduced from the written down value of the assets.".

Amendment of section 43B.

27. In section 43B of the Income-tax Act, in *Explanation* 4, for clause (*aa*), the following clause shall be substituted with effect from the 1st day of April, 2000, namely:–

'(*aa*) "scheduled bank" shall have the meaning assigned to it in the *Explanation* to clause (*iii*) of sub-section (*5*) of section 11;'.

Substitution of new section for section 43D.

28. For section 43D of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2000, namely:–

Special provision in case of income of public financial institutions, public companies, etc.

'43D. Notwithstanding anything to the contrary contained in any other provision of this Act,-

(*a*) in the case of a public financial institution or a scheduled bank or a State financial corporation or a State industrial investment corporation, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts;

(*b*) in the case of a public company, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the National Housing Bank in relation to such debts,

shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or the State financial corporation or the State industrial investment corporation or the public company to its profit and loss account for that year or, as the case may be, in which it is actually received by that institution or bank or corporation or company, whichever is earlier.

Explanation.-For the purposes of this section,–

(*a*) "National Housing Bank" means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987; 53 of 1987.

(*b*) "public company" means a company,–

(*i*) which is a public company within the meaning of section 3 of the Companies Act, 1956; 1 of 1956.

(*ii*) whose main object is carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; and

(*iii*) which is registered in accordance with the Housing Finance Companies (NHB) Directions, 1989 given under section 30 and section 31 of the National Housing Bank Act, 1987; 53 of 1987.

(*c*) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956; 1 of 1956.

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

(*e*) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951; 63 of 1951.

(*f*) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956, engaged in the business of providing long-term finance for industrial projects.'. 1 of 1956.

Amendment of section 44AD.

29. In section 44AD of the Income-tax Act, after sub-section (*5*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:–

"(*6*) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (*1*), if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.".

Amendment of section 44AE.

30. In section 44AE of the Income-tax Act, after sub-section (*6*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998,

namely:–

"(*7*) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-sections (*1*) and (*2*), if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.".

Amendment of section 44AF.

31. In section 44AF of the Income-tax Act, after sub-section (*4*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:–

"(*5*) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (*1*), if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.".

Amendment of section 45.

32. In section 45 of the Income-tax Act, after sub-section (*1*), the following sub-section shall be inserted with effect from the 1st day of April, 2000, namely:–

'(*1A*) Notwithstanding anything contained in sub-section (*1*), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of–

(*i*) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(*ii*) riot or civil disturbance; or

(*iii*) accidental fire or explosion; or

(*iv*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such money or other asset was received and for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Explanation.–For the purposes of this sub-section, the expression "insurer" shall have the meaning assigned to it in clause (*9*) of section 2 of the Insurance Act, 1938.'.

4 of 1938.

Insertion of new section 46A. Capital gains on purchase by company of its own shares or other specified securities.

33. After section 46 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:-

'46A. Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.

Explanation.-For the purposes of this section, "specified securities" shall have the meaning assigned to it in *Explanation* to section 77A of the Companies Acts, 1956.'.

1 of 1956.

Amendment of section 47.

34. In section 47 of the Income-tax Act, after clause (*via*), the following clauses shall be inserted with effect from the 1st day of April, 2000, namely:–

"(*vib*) any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(*vic*) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if–

(*a*) at least seventy-five per cent. of the shareholders of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(*b*) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated:

1 of 1956.

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause;

(*vid*) any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;".

Amendment of section 49.

35. In section 49 of the Income-tax Act, after sub-section (*2A*), the following sub-sections shall be inserted with effect from the 1st day of April, 2000, namely:–

'(*2B*) Where the capital gain arises from the transfer of the specified security referred to in sub-clause (*iiia*) of clause (*2*) of section 17, the cost of acquisition of such specified security shall be the fair market value on the date of exercise of option.

(*2C*) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(*2D*) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (*2C*).

Explanation.–For the purposes of this section, "net worth" shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.'.

Insertion of new section 50B.

36. After section 50A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2000, namely:-

Special provision for computation of capital gains in case of slump sale.

'50B. (*1*) Any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place:

Provided that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more undertakings owned and held by an assessee for not more than thirty-six months immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

(*2*) In relation to capital assets being an undertaking or division transferred by way of such sale, the "net worth" of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.

(*3*) Every assessee, in the case of slump sale, shall furnish in the prescribed form along with the return of income, a report of an accountant as defined in the *Explanation* below sub-section (2) of section 288 indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

Explanation.–For the purposes of this section, "net worth" means the net worth as defined in clause (*ga*) of sub-section (*1*) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985.'. 1 of 1986.

Amendment of section 72.

37. In section 72 of the Income-tax Act, in sub-section (*1*), in clause (*i*), the proviso shall be omitted with effect from the 1st day of April, 2000.

Substitution of new section for section 72A.

38. For section 72A of the Income-tax Act, the following section shall be substituted, with effect from the 1st day of April, 2000, namely:–

Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

'72A. (*1*) Where there has been an amalgamation of a company owning an industrial undertaking or a ship with another company, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

(*2*) Notwithstanding anything contained in sub-section (*1*), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the amalgamated company–

(*i*) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths in the value of assets of the amalgamating company acquired in a scheme of amalgamation;

(*ii*) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;

(*iii*) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.

(*3*) In a case where any of the conditions laid down in sub-section (*2*) are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the

amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which such conditions are not complied with.

(*4*) Notwithstanding anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall–

(*a*) where such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(*b*) where such loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as the case may be.

(*5*) The Central Government may, for the purposes of this Act, by notification in the Official Gazette, specify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes.

(*6*) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (*xiii*) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (*xiv*) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the purpose of previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Provided that if any of the conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) to section 47 are not complied with, the set-off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

(*7*) For the purposes of this section,–

(*a*) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern or the amalgamating company or the demerged company, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or amalgamation or demerger had not taken place;

(*b*) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or amalgamation or demerger had not taken place.'.

39. In section 79 of the Income-tax Act, in clause (*a*), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2000, namely:– Amendment of section 79.

"Provided further that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent. shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.".

40. In section 80D of the Income-tax Act, with effect from the 1st day of April, 2000,– Amendment of section 80D.

(*a*) in sub-section (*1*), after clause (*ii*), the following proviso shall be inserted, namely:–

"Provided that where the sum specified in sub-section (*2*) is paid to effect or to keep in force an insurance on the health of the assessee, or his wife or her husband or dependant parents or any member of the family in case the assessee is a Hindu undivided family, and who is a senior citizen, the provisions of this section shall have effect as if for the words "ten thousand rupees", the words "fifteen thousand rupees" had been substituted;";

(*b*) in sub-section (*2*), the following *Explanation* shall be inserted at the end, namely:–

'Explanation.–For the purpose of this section, "senior citizen" shall have the meaning assigned to it in the *Explanation* to section 80DDB.'.

Amendment of section 80DD.

41. In section 80DD of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted with effect from the 1st day of April, 2000, namely:–

"(*1*) Where an assessee, who is a resident in India, being an individual or a Hindu undivided family has, during the previous year,–

(*a*) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or

(*b*) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or Unit Trust of India subject to the conditions specified in sub-section (*2*) and approved by the Board in this behalf for the maintenance of handicapped dependant,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of forty thousand rupees in respect of the previous year.".

Amendment of section 80DDB.

42. In section 80DDB of the Income-tax Act, with effect from the 1st day of April, 2000,–

(*a*) for the word "incurred", the words "actually incurred" shall be substituted;

(*b*) for the words "fifteen thousand rupees", the words "forty thousand rupees" shall be substituted;

(*c*) after the proviso, the following provisos shall be inserted, namely:–

'Provided further that the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer for the medical treatment of the person referred to in clause (*a*) or clause (*b*):

Provided also that where the expenditure incurred is in respect of the assessee or his dependant relative or any member of a Hindu undivided family of the assessee and who is a senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "sixty thousand rupees" had been substituted.';

(*d*) for the *Explanation*, the following *Explanation* shall be substituted, namely:–

'*Explanation.*-For the purposes of this section,–

(*i*) "dependant" means a person who is not dependant for his support or maintenance on any person other than the assessee;

(*ii*) "insurer" shall have the meaning assigned to it in clause (*9*) of section 2 of the Insurance Act, 1938; 4 of 1938.

(*iii*) "senior citizen" means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.'.

Amendment of section 80G.

43. In section 80G of the Income-tax Act, with effect from the 1st day of April, 2000,–

(*a*) in sub-section (*1*), in clause (*i*), after the words, brackets, figures and letters "or sub-clause (*iiihh*)", the words, brackets, figures and letters "or sub-clause (*iiihi*)" shall be inserted;

(*b*) in sub-section (*2*), in clause (*a*), after sub-clause (*iiihh*), the following sub-clause shall be inserted, namely:–

"(*iiihi*) the Fund for Technology Development and Application set up by the Central Government; or";

(*c*) after sub-section (*5A*) and before *Explanation* 1, the following sub-section shall be inserted, namely:–

"(*5B*) Notwithstanding anything contained in clause (*ii*) of sub-section (*5*) and *Explanation* 3, an institution or fund which incurs expenditure, during any previous year, which is of a religious nature for an amount not exceeding five per cent. of its total income in that previous year shall be deemed to be an institution or fund to which the provisions of this section apply.".

Amendment of section 80HHA.

44. In section 80HHA of the Income-tax Act, in the *Explanation,* for clause (*b*), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1978, namely:–

"(*b*) an industrial undertaking shall be deemed to be a small-scale industrial undertaking which is, on the last day of the previous year, regarded as a small-scale industrial undertaking under section 11B of the Industries (Development and Regulation) Act, 1951.". 65 of 1951.

Amendment of section 80HHB.

45. In section 80HHB of the Income-tax Act, with effect from the 1st day of June, 1999,–

(*a*) in sub-section (*3*),–

(*i*) after clause (*i*), the following clause shall be inserted, namely:–

"(*ia*) the assessee furnishes, along with his return of income, a certificate in the prescribed form from an accountant as defined in the *Explanation* below sub-section (*2*) of section 288, duly signed and verified by such accountant, certifying that the deduction has been correctly claimed in accordance with the provisions of this section;";

(*ii*) in clause (*iii*), for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(*b*) after sub-section (*3*), the following *Explanation* shall be inserted, namely:–

'*Explanation*.–For the purposes of clause (*iii*), the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.'.

Amendment of section 80HHC.

46. In section 80HHC of the Income-tax Act,–

(*a*) in sub-section (*2*), with effect from the 1st day of June, 1999,–

(*i*) in clause (*a*), for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(*ii*) after clause (*a*), the following *Explanation* shall be inserted, namely:–

'*Explanation*.–For the purposes of this clause, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.';

(*b*) after sub-section (*4A*), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1992, namely:–

"(*4B*) For the purposes of computing the total income under sub-section (*1*) or sub-section (*1A*), any income not charged to tax under this Act shall be excluded.".

Amendment of section 80HHD.

47. In section 80HHD of the Income-tax Act,–

(*a*) in sub-section (*2*), with effect from the 1st day of June, 1999,–

(*i*) for the portion beginning with the words "where the Chief Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(*ii*) 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 sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.';

(*b*) in sub-section (*2A*), for the word "*Explanation*", the word and figure "*Explanation* 1" shall be substituted with effect from the 1st day of June, 1999;

(*c*) in sub-section (*4*), with effect from the 1st day of April, 2000,–

(*i*) after clause (*e*), the following clause shall be inserted, namely:–

"(*f*) subscription to equity shares forming part of any eligible issue of capital made by a public company:';

(*ii*) in the proviso, for the words, brackets and letters "clauses (a) to (*e*)", the words, brackets and letters "clauses (*a*) to (*f*)" shall be substituted;

(*d*) after sub-section (*5*), the following sub-section and *Explanation* shall be inserted with effect from the 1st day of April, 2000, namely:–

"(*5A*) Where any amount credited to the reserve account under clause (*b*) of sub-section (*1*) has been utilised for subscription to any equity shares referred to in clause (*f*) of sub-section (*4*) and either whole or any part of such equity shares are transferred or converted into money by the assessee at any time within a period of three years from the date of their acquisition, the aggregate amount so utilised in respect of such equity shares shall be deemed to be the profits of the previous year in which the equity shares are transferred or converted into money.

Explanation.–A person shall be treated as having acquired any shares on the date on which his name is entered in relation to those shares in the register of members of the public company.";

(*e*) in sub-section (*6*), for the words, brackets and figure "*Explanation* to sub-section (*2*)", the words, brackets and figures "*Explanation* 1 to sub-section (*2*)" shall be substituted with effect from the 1st day of June, 1999;

(*f*) in the *Explanation*, after clause (*d*), the following clause shall be inserted with effect from the 1st day of April, 2000, namely:–

'(*e*) "eligible issue of capital" means an issue made by a public company formed and registered in India and the entire proceeds of the issue is utilised wholly and exclusively for the purpose of carrying on the business of–

(*i*) setting up and running of new hotels approved by the prescribed authority; or

(*ii*) providing such new facility for the growth of tourism in India, as the Central Government may, by notification in the Official Gazette, specify.'.

Amendment of section 80HHE.

48. In section 80HHE of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 1999,–

(*a*) for the portion beginning with the words "where the Commissioner" and ending with the words "may allow in this behalf", the words "within such further period as the competent authority may allow in this behalf" shall be substituted;

(*b*) 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 sub-section , the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.'.

Insertion of new section 80HHF.

49. After section 80HHE, the following section shall be inserted with effect from the 1st day of April, 2000, namely:-

Deduction in respect of profits and gains from export or transfer of film software, etc.

'80HHF. (*1*) Where an assessee, being an Indian company, is engaged in the business of export or transfer by any means out of India, of any film software, television software, music software, television news software, including telecast rights (hereafter in this section referred to as the software or software rights), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of the profits derived by the assessee from such business.

(*2*) The deduction specified in sub-section (*1*) shall be allowed only if the consideration in respect of the software or software rights referred to in that sub-section is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf.

(*3*) For the purposes of sub-section (*1*), profits derived from the business referred to in that sub-section shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

(*4*) The deduction under sub-section (*1*) shall not be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(*5*) Where a deduction under this section is claimed and allowed in respect of profits of the business referred to in sub-section (*1*) for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of this Act for the same or any other assessment year.

(*6*) Notwithstanding anything contained in this section, no deduction shall be allowed in respect of the software or software rights referred to in sub-section (*1*), if such business is prohibited by any law for the time being in force.

Explanation.–For the purposes of this section,–

(*a*) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;

(*b*) "convertible foreign exchange" shall have the meaning assigned to it in clause (*a*) of the *Explanation* to section 80HHC;

(*c*) "export turnover" means the consideration in respect of the software or software rights specified in clauses (*d*), (*e*), (*g*), (*h*) and (*i*), received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (*2*), but does not include freight,

telecommunication charges or insurance attributable to the delivery of such software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(*d*) "film software" means a copy of a cinematograph film made by any process analogous to cinematography on acetate polyester or celluloid film positive, magnetic tape, digital media or other optical or magnetic devices and certified by the Board of film certification constituted by the Central Government under section 3 of the Cinematograph Act, 1952;

37 of 1952.

(*e*) "music software" includes series of sounds or music recorded on magnetic tape, cassette, compact discs and digital media which can be played or reproduced on any appropriate apparatus;

(*f*) "profits of the business" means the profits of the business as computed under the head "Profits and gains of business or profession" as reduced by–

(*A*) ninety per cent. of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits; and

(*B*) the profits of any branch, office, warehouse or any other establishment of the assessee situated outside India;

(*g*) "telecast rights" means a licence or contract to exhibit motion pictures or television programmes over a television network either through terrestrial transmission or through a satellite broadcast in a specified territory;

(*h*) "television news software" means a collection of sounds and images, reportage, data and voice of actualities broadcast either through terrestrial transmission, wire or satellite, live or pre-recorded on video cassettes or digital media;

(*i*) "television software" means any programme or series of sounds and images recorded on film or tape or digital media or broadcast through terrestrial transmitter, satellite or any other means of diffusion;

(*j*) "total turnover" shall not include–

(*A*) any sum referred to in clauses (*iiia*), (*iiib*) and (*iiic*) of section 28;

(*B*) any freight, telecommunication charges or insurance attributable to the delivery of the film software, music software, telecast rights, television news software, or television software as defined in clause (*d*), (*e*), (*g*), (*h*) or (*i*), as the case may be, outside India;

(*C*) expenses, if any, incurred in foreign exchange in providing the technical services outside India.'.

50. For section 80-IA of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 2000, namely:–

Substitution of new sections for section 80-IA.

Deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

'80-IA. (*1*) Where the gross total income of an assessee includes any profits and gains derived from any business of an industrial undertaking or an enterprise referred to in sub-section (*4*) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to hundred per cent. of profits and gains derived from such business for the first five assessment years commencing at any time during the periods as specified in sub-section (*2*) and thereafter, twenty-five per cent. of the profits and gains for further five assessment years:

Provided that where the assessee is a company, the provisions of this sub-section shall have effect as if for the words "twenty-five per cent." , the words "thirty per cent." had been substituted.

(*2*) The deduction specified in sub-section (*1*) may, at the option of the assessee, be claimed by him for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication service or develops an industrial park or generates power or commences transmission or distribution of power:

Provided that where the assessee begins operating and maintaining any infrastructure facility referred to in clause (*b*) of *Explanation* to clause (*i*) of sub-section (*4*), the provisions of this sub-section shall have effect as if for the words "fifteen years", the words "twenty years" had been substituted.

(*3*) This section applies to any industrial undertaking which fulfils all the following conditions, namely:–

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

Provided that this condition shall not apply in respect of an industrial undertaking which is formed as a result of the re-establishment, re-construction 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;

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

Explanation 1.–For the purposes of clause (*ii*), any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:–

(*a*) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the assessee.

Explanation 2.–Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (*ii*) of this sub-section, the condition specified therein shall be deemed to have been complied with.

(*4*) This section applies to–

(*i*) any enterprise carrying on the business of (*i*) developing, (*ii*) maintaining and operating or (*iii*) developing, maintaining and operating any infrastructure facility which fulfils all the following conditions, namely:–

(*a*) it is owned by a company registered in India or by a consortium of such companies;

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

(*c*) it has started or starts operating and maintaining the infrastructure facility on or after the 1st day of April, 1995:

Provided that where an infrastructure facility is transferred on or after the 1st day of April, 1999 by an enterprise which developed such infrastructure facility (hereafter referred to in this section as the transferor enterprise) to another enterprise (hereafter in this section referred to as the transferee enterprise) for the purpose of operating and maintaining the infrastructure facility on its behalf in accordance with the agreement with the Central Government, State Government, local authority or statutory body, the provisions of this section shall apply to the transferee enterprise as if it were the enterprise to which this clause applies and the deduction from profits and gains would be available to such transferee enterprise for the unexpired period during which the transferor enterprise would have been entitled to the deduction, if the transfer had not taken place.

Explanation.–For the purposes of this clause, "infrastructure facility" means,–

(*a*) a road, bridge, airport, port, inland waterways and inland ports, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette;

(*b*) a highway project including housing or other activities being an integral part of the highway project; and

(*c*) a water supply project, irrigation project, sanitation and sewerage system.;

(*ii*) any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service or network of trunking and electronic data interchange services at any time on or after the 1st day of April, 1995 but before the 31st day of March, 2000.

Explanation.–For the purposes of this clause, "domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service.

(*iii*) any undertaking which develops, develops and operates or maintains and operates an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002: