

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (f) of clause 6 of the Bill seeks to insert new clause (18) in section 10 of the income-tax Act relating to incomes not included in the total income. The proposed clause *inter alia* exempts from income-tax the income by way of pension received by an individual who has been in the service of the Central or State Government and has been awarded "Paramvir Chakra" or "Mahavir Chakra" or "Vir Chakra" or other gallantry awards. The new clause proposes to confer powers upon the Central Government to specify other gallantry awards by notification in the Official Gazette.

Sub-clause (j) of clause 6 of the Bill seeks to insert a new clause (23FA) in section 10 of the Income-tax Act relating to certain exemptions. The proposed clause (23FA) exempts any income by way of dividends, other than the dividend 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. The first proviso to the said sub-clause proposes to confer power upon the Central Board of Direct Taxes to make rules relating to conditions to be satisfied by the venture capital fund or venture capital company for granting approval under the said clause. Clauses (a) and (b) of the *Explanation* to the said sub-clause propose to confer power upon the Central Board of Direct Taxes to specify by rules the guidelines for the purpose of investments to be made by a venture capital fund and a venture capital company. Clause (c) of the *Explanation* to the said sub-clause confers powers upon the Central Government to notify such other sectors in which a domestic company can engage itself so as to fall within the ambit of a venture capital undertaking.

Clause 7 of the Bill seeks to insert a new section 10C relating to special provision in respect of certain industrial undertakings in North-Eastern Region. Clause (i) and (ii) of the *Explanation* to the said section empower the Central Government to specify by notification in the Official Gazette such centres located in the North-Eastern Region as Integrated Infrastructure Development Centres and Industrial Growth Centres.

Clause 15 of the Bill proposes to amend section 35 of the Income-tax Act relating to expenditure on scientific research. Clauses (ii) and (iii) of sub-section (1) of section 35 confer power upon the prescribed authority to approve any scientific research association, university, college or other institution. The prescribed authority also has powers, before granting such approval, to call for documents or information from such association, university, college or other institution, as it thinks necessary in order to satisfy itself about the genuineness of the activities of the association, university, college or other institution and to make such inquiries as it may deem necessary in this behalf. It is proposed to confer the aforesaid powers to the Central Government.

Sub-clause (d) of clause 22 of the Bill proposes to insert a new clause (xi) in sub-section (1) of section 36 of the Income-tax Act relating to deductions to be allowed in computing the income referred to in section 28. The proposed clause (xi) provides that any expenditure incurred by an assessee on or after the 1st day of April, 1999 but before the 1st day of April, 2000 to make a non-Y2K compliant computer system Y2K computer system, shall be admissible as deduction subject to the conditions specified in the said clause. It is proposed to provide that the deduction under the proposed clause (xi) shall not be admissible unless the assessee furnishes a report of an accountant, alongwith the return, in the prescribed form. It is proposed to confer power upon the Central Board of Direct Taxes to specify by rules the form of such report.

Clause 28 of the Bill seeks to substitute section 43D relating to special provision in case of income of public financial institutions, public companies, etc. The proposed section empowers the Central Board of Direct Taxes to prescribe by rules the categories of bad or doubtful debts in respect of which the provision shall apply.

Clause 36 of the Bill proposes to insert a new section relating to special provision for computation of capital gains in case of slump sale. Sub-section (3) of the proposed section, *inter alia*, empowers the Central Board of Direct Taxes to prescribe the form in which the report of the accountant is to be furnished indicating the computation of net worth of the undertaking or division.

Clause 38 of the Bill proposes to substitute section 72A of the Income-tax Act relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in certain cases of amalgamation. One of the conditions specified in the proposed section 72A is that 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 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 purposes. Clause (iii) of sub-section (2) of the proposed section 72A proposes to confer power upon the Central Board of Direct Taxes to specify the conditions to ensure the revival of the business of the amalgamating company and that the amalgamation is for genuine business purposes. The proposed section 72A contains, *inter alia*, provisions relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in the case of demerger. Sub-section (5) of the proposed section 72A proposes to confer power upon the Central Government to specify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes.

Clause 45 of the Bill proposes to amend sub-section (3) of section 80HHB of the Income-tax Act relating to deductions in respect of profits and gains from purchase outside India. The proposed amendment seeks to provide that the deductions under the said section shall be allowed if the assessee furnishes along with the return a certificate in the prescribed form from an accountant certifying that the deduction under the said section has been correctly claimed in accordance with the provisions of that section. It is proposed to confer power upon the Central Board of Direct Taxes to specify by rules the form of such certificate.

Clause 47 of the Bill seeks to amend section 80HHD of the Income-tax Act relating to deduction in respect of earnings in convertible foreign exchange. Sub-clause (f) of the said clause seeks to insert an *Explanation* below clause (d) of the *Explanation* defining certain expressions. The proposed clause empowers the Central Government to notify the new facilities for the growth of tourism in India.

Clause 49 of the Bill proposes to insert a new section 80HHF relating to deductions in respect of profits and gains from export or transfer of film software. Sub-section (4) of the newly proposed section 80HHF provides that deductions shall not be admissible unless the assessee furnishes along with the return a report of an accountant in the prescribed form certifying that the deductions have been claimed in accordance with this section. It is proposed to confer power upon the Central Board of Direct Taxes to specify by rules the form of such certificate.

Clause 50 of the Bill proposes to substitute section 80-IA by two new sections 80-IA and 80-IB relating to deductions. Newly proposed section 80-IA relates to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure facility. Sub-section (4), *inter alia*, provides that the deduction may be available to an enterprise carrying on the business of developing, maintaining and operating or developing, maintaining and operating a new infrastructure facility, fulfilling certain conditions. The *Explanation* to clause (i) of sub-section (4) defines the term "infrastructure facility" to mean a road, bridge, airport, port, inland waterways and inland ports, rail system or any other public facility of a similar nature. It is proposed to confer

power upon the Central Board of Direct Taxes to notify such other public facility of similar nature by way of notification in the Official Gazette. 93 clause (b) of the said clause inserts sub-sections (9) to (11) in the said section. The proposed sub-section (11) empowers the Central Board of Direct Taxes to make rules specifying the cases in which and the circumstances under which an application may be made for the grant of a certificate for collection of tax at a lower rate than the rate specified in sub-section (1) and the conditions subject to which such certificate may be granted.

Sub-section (4) also provides that the provisions of this section shall apply to an undertaking which develops, develops and operates or develops, maintains and operates an industrial park. It is proposed to confer power upon the Central Government to notify such industrial park.

Clause 53 of the Bill inter alia seeks to amend section 80-O relating to deduction in respect of royalties, etc. from certain foreign enterprises. Clause (b) of the said clause proposes to insert a second proviso in section 80-O. The said second proviso inter alia confers power upon the Central Board of Direct Taxes to prescribe the form in which the assessee shall furnish a certificate, alongwith his return, certifying that the deduction has been correctly claimed.

Clause 59 of the Bill proposes to insert a new section 115ACA relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer. The proposed section provides the rate of income-tax on the amount of income by way of dividends in respect of Global Depository Receipts and in respect of income by way of long-term capital gains. The proposed section applies to Global Depository Receipts of Indian company engaged in the information technology software and information technology services, issued in accordance with such employees' stock option scheme as the Central Government may specify in this behalf. It is proposed to confer power upon the Central Government to specify such employees' stock option scheme for the purposes of the said section.

Clause 80 of the Bill seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc. Sub-clause (a) of the said clause seeks to insert sub-sections (5B) and (5C) in section 206C. The proposed sub-section (5B) empowers the Central Board of Direct Taxes to specify computer readable media for the purpose of filing of return for tax collection at source. Sub-

Clause 103 of the Bill proposes to insert a new Chapter VB in the Customs Act to provide for Advance Rulings. The new Chapter provides for the constitution of an Authority known as Authority for Advance Rulings. Sub-section (3) of section 28F of the aforesaid Chapter empowers the Central Government to lay down the terms and conditions of service of the Members of the Authority including the salaries and allowances payable to them. Sub-section (1) of section 28H empowers the Central Board of Excise and Customs to prescribe by regulations the form and manner in which an applicant shall make an application before the Authority. Sub-section (7) of section 28-I empowers the Board to provide for the manner in which the copy of the advance ruling shall be certified. Section 28M empowers the Authority to regulate its procedure in all matters arising out of the exercise of its powers under the Act.

Clause 106 of the Bill seeks to insert a proviso in sub-section (1) of section 54 of the Customs Act. This proviso empowers the Board to prescribe by regulations the form of "declaration for transshipment".

Clause 112 seeks to substitute section 130A of the Customs Act. Sub-section (1) of section 130-A empowers the Board to prescribe by regulations the form of application to be made to the High Court.

The matters in respect of which notifications may be issued or rules or regulations may be made in accordance with the aforesaid provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.