

CHAPTER III

DIRECT TAXES

Income-tax

3. In the Income-tax Act, save as otherwise expressly provided, and unless the context otherwise requires, the reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of October, 1998 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

Substitution of new authorities.

TABLE

(1)	(2)
1. Assistant Commissioner	Assistant Commissioner or Deputy Commissioner.
2. Assistant Director	Assistant Director or Deputy Director.
3. Deputy Commissioner	Joint Commissioner.
4. Deputy Director	Joint Director.

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

Amendment of section 2.

(a) in clause (7A) with effect from the 1st day of October, 1998,—

(i) for the words “Assistant Commissioner or Assistant Director”, the words “Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director” shall be substituted;

(ii) for the words “Deputy Commissioner or Deputy Director”, the words “Joint Commissioner or Joint Director” shall be substituted;

(b) in clause (9A), after the words “an Assistant Commissioner of Income-tax”, the words “or a Deputy Commissioner of Income-tax” shall be inserted with effect from the 1st day of October, 1998;

(c) for clause (11), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:—

‘(11) “block of assets” means,—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed;’;

(d) in clause (19A), the words “or an Additional Commissioner of Income-tax” shall be omitted with effect from the 1st day of October, 1998;

(e) in clause (19C), the words “or an Additional Director of Income-tax” shall be omitted with effect from the 1st day of October, 1998;

(f) in clause (24), after sub-clause (xi), the following sub-clause shall be inserted with effect from the 1st day of April, 1999, namely:—

“(xii) value of any movable or immovable property received on or after the 1st day of October, 1998 by any person without consideration in money or money’s worth;”;

(g) after clause (28B), the following clauses shall be inserted with effect from the 1st day of October, 1998, namely:—

‘(28C) “Joint Commissioner” means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (1) of section 117;

(28D) “Joint Director” means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under sub-section (1) of section 117;’;

(h) in clause (30), the words, figures and brackets “, and for the purposes of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of sub-section (6) of section 6” shall be omitted with effect from the 1st day of April, 1999.

5. In section 5 of the Income-tax Act, in sub-section (1), the proviso shall be omitted with effect from the 1st day of April, 1999.

Amendment of section 5.

- Amendment of section 6. **6.** In section 6 of the Income-tax Act, sub-section (6) shall be omitted with effect from the 1st day of April, 1999.
- Amendment of section 10. **7.** In section 10 of the Income-tax Act, with effect from the 1st day of April, 1999,—
- (a) in clause (3), in the second proviso, after clause (iii), the following clause shall be inserted, namely:—
- “(iv) income chargeable under clause (v) of sub-section (2) of section 56;”;
- (b) clause (5A) shall be omitted;
- (c) in clause (6), item (aa) of sub-clause (i) and sub-clauses (via), (viiia), (ix) and (x) shall be omitted;
- (d) in clause (8A), in the *Explanation*, for clause (i), the following clause shall be substituted, namely:—
- “(i) any individual who is not a citizen of India; or”;
- (e) in clause (8B), in sub-clause (b), for item (i), the following item shall be substituted, namely:—
- “(i) the individual is an employee of the consultant referred to in clause (8A) and is not a citizen of India; and”;
- (f) in clause (15), in sub-clause (iv),—
- (i) items (c), (e) and (f) shall be omitted;
- (ii) in item (fa), the words, figures and brackets “or to a person who is not ordinarily resident within the meaning of sub-section (6) of section 6” shall be omitted;
- (g) clause (18A) shall be omitted;
- (h) clauses (22) and (22A) shall be omitted;
- (i) in clause (23C), after sub-clause (iiia), the following sub-clause shall be inserted, namely:—
- “(iiia) any university or other educational institution, hospital or medical institution established by a Central, State or Provincial Act or by a local authority or any society registered under the Societies Registration Act, 1860 or any other corresponding law for the time being in force and which is wholly or substantially financed by the Government; or”;
- (j) for clause (23G), the following clause shall be substituted, namely:—
- “(23G) any income by way of interest of an infrastructure capital fund or an infrastructure capital company from primary investments made by way of long-term finance in any enterprise wholly engaged in the business of developing, maintaining and operating any infrastructure facility and which has been approved by the Central Government on an application made by it, in accordance with the rules made in this behalf and which satisfies the prescribed conditions.
- Explanation.*—For the purposes of this clause,—
- (a) “infrastructure capital company” means such company established to make investments by way of long-term finance in an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility;
- (b) “infrastructure 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 investment by way of long-term finance in an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility;
- (c) “infrastructure facility” means—
- (i) a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;
- (ii) a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after the 1st day of April, 1993;
- (iii) a project for providing telecommunication services on or after the 1st day of April, 1995;
- (d) “long-term finance” shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;”;

21 of 1860.

16 of 1908.

(k) in clause (26), after the words, brackets and figures "North-Eastern Areas (Reorganisation) Act, 1971", the words "or in the Ladakh region of the State of Jammu and Kashmir" shall be inserted.

8. In section 16 of the Income-tax Act, for clause (j), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:— Amendment of section 16.

"(j) in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(a) does not exceed one lakh rupees, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty-five thousand rupees, whichever is less;

(b) exceeds one lakh rupees but does not exceed five lakh rupees, a deduction of a sum of twenty thousand rupees.

Explanation.—For the purposes of this clause, where salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;".

9. In section 17 of the Income-tax Act, in clause (2), in the proviso, in clause (v), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1999. Amendment of section 17.

10. In section 24 of the Income-tax Act, with effect from the 1st day of April, 1999,— Amendment of section 24.

(a) in sub-section (1), in clause (i), for the word "one-fifth", the word "one-fourth" shall be substituted;

(b) in the proviso to sub-section (2), for the word "fifteen", the word "thirty" shall be substituted.

11. In section 32 of the Income-tax Act, in sub-section (1),— Amendment of section 32.

(a) for the opening portion beginning with the words "In respect of depreciation of buildings, machinery, plant or furniture owned, wholly or partly," and ending with the words "and figures "section 34, be allowed—", the following shall be substituted with effect from the 1st day of April, 1999, namely:—

"In respect of depreciation of—

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—";

(b) in the fourth proviso, for the words "plant or furniture", the words "plant or furniture, being tangible asset or know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets" shall be substituted with effect from the 1st day of April, 1999;

(c) after *Explanation 2*, the following *Explanations* shall be inserted with effect from the 1st day of April, 1999, namely:—

Explanation 3.—For the purposes of this sub-section, the expressions "assets" and "block of assets" shall mean—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

Explanation 4.—For the purposes of this sub-section, the expression "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);

(d) after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

(iii) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) “sold” includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company.;

(e) in the fourth proviso, after the words “referred to in”, the words, brackets and figures “clause (xiii) and clause (xiv) of section 47 or” shall be inserted with effect from the 1st day of April, 1999.

Insertion of
new section
33ABA.

Site
Restoration
Fund.

12. After section 33AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

‘33ABA. (1) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year—

(a) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas; or

(b) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Ministry referred to in clause (a) (hereafter in this section referred to as the deposit scheme),

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

(i) a sum equal to the amount or the aggregate of the amounts so deposited; or

(ii) a sum equal to twenty per cent. of the profits of such business (computed under the head “Profits and gains of business or profession” before making any deduction under this section),

whichever is less:

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner or, as the case may be, any member of such firm, association of persons or body of individuals:

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Site Restoration Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant:

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account or the Site Restoration Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme or in the circumstances specified below:—

- (a) closure of business;
- (b) death of an assessee;
- (c) partition of a Hindu undivided family;
- (d) dissolution of a firm;
- (e) liquidation of a company.

(4) Notwithstanding anything contained in sub-section (3), no deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of—

- (a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;
- (b) any office appliances (not being computers);
- (c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;
- (d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(5) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, is withdrawn during any previous year by the assessee in the circumstance specified in clause (a) or clause (d) of sub-section (3), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.

(6) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(7) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, which is released during any previous year by the State Bank of India or which is withdrawn by the assessee from the Site Restoration Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year:

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in circumstances specified in clauses (b), (c) and (e) of sub-section (3).

(8) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year:

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956; or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—For the purposes of this section,—

(a) “State Bank of India” means the State Bank of India constituted under the State Bank of India Act, 1955;

23 of 1955.

(b) the expression “amount standing to the credit of the assessee in the special account or the Site Restoration Account” includes interest accrued to such accounts.’

Amendment
of section 35.

13. In section 35 of the Income-tax Act, sub-section (2AB) shall be omitted with effect from the 1st day of April, 1999.

Amendment
of section 35A.

14. In section 35A of the Income-tax Act, in sub-section (1), after the words, figures and letters “after the 28th day of February, 1966”, the words, figures and letters “but before the 1st day of April, 1998” shall be inserted with effect from the 1st day of April, 1999.

Amendment
of section
35AB.

15. In section 35AB of the Income-tax Act, in sub-section (1), for the words “in any previous year”, the words, letters and figures “in any previous year relevant to the assessment year commencing on or before the 1st day of April, 1998” shall be substituted with effect from the 1st day of April, 1999.

Amendment
of section 35D.

16. In section 35D of the Income-tax Act, with effect from the 1st day of April, 1999,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

‘Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (2), the provisions of this sub-section shall have effect as if for the words “an amount equal to one-tenth of such expenditure for each of the ten successive previous years”, the words “an amount equal to one-fifth of such expenditure for each of the five successive previous years” had been substituted.’;

(b) in sub-section (3), before the *Explanation*, the following proviso shall be inserted, namely:—

‘Provided that where the aggregate amount of expenditure referred to in sub-section (2) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words “two and one-half per cent.”, the words “five per cent.” had been substituted.’.

Amendment
of section 37.

17. In section 37 of the Income-tax Act, after sub-section (1), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.”.

Amendment
of section 41.

18. In section 41 of the Income-tax Act, after sub-section (1), 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:—

“(2) Where any building, machinery, plant or furniture,—

(a) which is owned by the assessee;

(b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and

(c) which was or has been used for the purposes of business,

is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.”.

19. Section 42 of the Income-tax Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:— Amendment of section 42.

“(2) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (1), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—

(a) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in respect of the previous year in which such business or interest, as the case may be, is transferred;

(b) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the previous year in which the business or interest therein, whether wholly or partly, had been transferred:

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(c) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

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

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

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

20. In section 43 of the Income-tax Act, in clause (1),— Amendment of section 43.

(a) after *Explanation 8*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:—

“*Explanation 9.*—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty leviable under the Customs Tariff Act, 1975 and a claim of credit has been made and allowed under the Central Excise Rules, 1944.”;

(b) after *Explanation 9*, the following *Explanation* shall be inserted with effect from the 1st day of April, 1999, namely:—

“*Explanation 10.*—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee:

Provided that where such subsidy or grant or reimbursement is of such nature that it can not be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.”.

21. In section 43B of the Income-tax Act, after clause (e), in the proviso, after the words, brackets and letter “or clause (d)”, the words, brackets and letter “or clause (e)” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997. Amendment of section 43B.

Amendment
of section
44AA.

22. In section 44AA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1999,—

(a) for the words “forty thousand”, at both the places where they occur, the words “one lakh twenty thousand” shall be substituted;

(b) for the words “five hundred thousand”, at both the places where they occur, the words “ten lakhs” shall be substituted.

Amendment
of section 47.

23. In section 47 of the Income-tax Act,—

(a) in clause (xi), for the figures, letters and words “31st day of December, 1997”, the figures, letters and words “31st day of December, 1998” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(b) after clause (xii), the following clauses shall be inserted with effect from the 1st day of April, 1999, namely:—

“(xiii) where a firm is succeeded by a company in the business carried on by it as a result of which the firm sells or otherwise transfers any building, machinery, plant, furniture or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;

(b) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession;

(c) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(d) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent. of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;

(xiv) where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any building, machinery, plant, furniture or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(b) the shareholding of the sole proprietor in the company is not less than fifty per cent. of the total voting power in the company and his shareholding continues to so remain as such for a period of five years from the date of the succession; and

(c) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

(xv) any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992, in this regard.”.

15 of 1992.

Amendment
of section
47A.

24. In section 47A of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—

“(3) Where any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 are not complied with, the benefit availed by the firm or by the sole proprietor, as the case may be, shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (xiii) or the proviso to clause (xiv), as the case may be, are not complied with.”.

Amendment
of section 48.

25. In section 48 of the Income-tax Act, after the third proviso, the following proviso shall be inserted with effect from the 1st day of April, 1999, namely:—

“Provided also that where the consideration received or accruing in respect of the transfer of a capital asset, being land or building or both, is less than the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer,

the consideration so adopted or assessed shall be deemed to be the full value of the consideration received or accruing.”.

26. After section 50 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

Insertion of new section 50A.

“50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (1) of section 32 has been obtained by the assessee in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (6) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.”.

Special provision for cost of acquisition in case of depreciable asset.

27. In section 54H of the Income-tax Act, after the figures and letter “54D”, the figures and letters “, 54EA, 54EB” shall be inserted with effect from the 1st day of April, 1999.

Amendment of section 54H.

28. In section 56 of the Income-tax Act, with effect from the 1st day of April, 1999,—

Amendment of section 56.

(a) in sub-section (2), after clause (iv), the following clause shall be inserted, namely:—

“(v) income referred to in sub-clause (xii) of clause (24) of section 2:

Provided that in respect of any property—

(a) transferred otherwise than for adequate consideration, the amount by which the value of such property determined in the manner laid down in Schedule III of the Wealth-tax Act, 1957, as on the date of actual receipt exceeds the value of the consideration shall be deemed to be the income in the hands of the transferee;

27 of 1957.

(b) transferred for a consideration which, having regard to the circumstances of the case, has not passed or is not intended to pass either in full or in part from the transferor, the amount of the consideration which has not passed or is not intended to pass shall be deemed to be income in the hands of the transferee;

(c) received by way of release, discharge, surrender, forfeiture or abandonment of any debt, contract or other actionable claim or of any interest in property by any person, the value of the release, discharge, surrender, forfeiture or abandonment to the extent to which it has not been found to the satisfaction of the Assessing Officer to have been bonafide shall be deemed to be the income in the hands of the person in whose favour the release has been made;

(d) for which a person who is absolutely entitled to property causes or has caused the same to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation from or out of the said property, the amount of the appropriation used for the benefit of the person making the appropriation or for the benefit of any other person shall be deemed to be income of the beneficiary;

(e) by way of an interest in property as a tenant for a term or for life or a remainderman surrenders or relinquishes his interest in property otherwise allows his interest to be terminated without consideration or for a consideration which is not adequate, the value of the interest so surrendered, relinquished or allowed to be terminated or, as the case may be, the amount by which such value exceeds the consideration received shall be deemed to be income of the beneficiary.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The income referred to in clause (v) of sub-section (2) of section 56 shall be computed after excluding—

(a) the amounts received from a person resident outside India out of the moneys standing to his credit in a Non-Resident (External) Account in any Bank in India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973. and any rules made thereunder.

46 of 1973.

Explanation.—For the purposes of this clause, “person resident outside India” has the meaning assigned to it in clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973;

(b) the amounts received from a citizen of India or a person of Indian origin who is not resident in India by any relative of such person in India of convertible foreign exchange remitted from a country outside India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 and any rules made thereunder;

46 of 1973.

(c) the amounts received from a citizen of India or a person of Indian origin who is not resident in India, by any relative of such person in India of property in the form of any foreign exchange asset as defined in clause (b) of section 115C;

46 of 1973.

(d) the amount received from an individual who is a Non-Resident Indian, once out of the moneys standing to his credit in an account opened and operated in accordance with the Non-

Resident (Non-Repatriable) Rupee Deposit Scheme, 1992;

(e) the amount received from an individual who is a Non-Resident Indian or property in the form of the bonds specified under sub-clause (iid) of clause (15) of section 10:

Provided that where an individual who is a Non-Resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this clause shall apply in respect of the transfer of property referred to in this clause in such subsequent year or any year thereafter.

Explanation.—For the purpose of this clause, the expression “Non-Resident Indian” shall have the meaning assigned to it in clause (e) of section 115C;

(f) the aggregate value of all cash, movable and immovable property not exceeding two lakh rupees received by a person at the time of his marriage; 39 of 1925.

(g) the movable and immovable property received under a will;

(h) the movable and immovable property received in contemplation of death which has the same meaning as in section 191 of the Indian Succession Act, 1925;

(i) the ex-gratia payments given by an employer to any employee by way of bonus, gratuity or pension or to the dependants of a deceased employee, to the extent to which the payment of such bonus, gratuity or pension is proved to the satisfaction of the Assessing Officer as being reasonable, having regard to the circumstances of the case and is made solely in recognition of the services rendered by the employee;

(j) the amounts received for meeting the educational and medical expenses from any relative upon whom the assessee is dependant for support and maintenance, to the extent such amounts are proved to the satisfaction of the Assessing Officer as being reasonable having regard to the circumstances of the case;

(k) the aggregate value of all cash, movable or immovable property for an amount not exceeding thirty thousand rupees received by any person during a financial year.’.

Amendment of section 69C.

29. In section 69C of the Income-tax Act, the following proviso shall be inserted at the end with effect from the 1st day of April, 1999, namely:—

“Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.”.

Insertion of new section 71B.

30. After section 71A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Carry forward and set-off of loss from house property.

‘71B. Where for any assessment year the net result of computation under the head “Income from house property” is a loss to the assessee and such loss cannot be or is not wholly set-off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(i) be set-off against the income from house property assessable for that assessment year; and

(ii) the loss, if any, which has not been set-off wholly, the amount of loss not so set-off shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.’.

Amendment of section 72A.

31. In section 72A of the Income-tax Act, after sub-section (3) and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—

“(4) 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 provisions 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 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.”.

32. For sections 80DD and 80DDA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1999, namely:—

Substitution of new section for sections 80DD and 80DDA.

'80DD. (1) In computing the total income of an assessee who is a resident of India, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the amount-

Deduction in respect of maintenance including medical treatment of handicapped dependant.

(a) of expenditure incurred by way of medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or

(b) paid or deposited under any 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,

out of his income chargeable to tax:

Provided that no such amount shall exceed forty thousand rupees in the aggregate under clause (a) or clause (b) or both.

(2) The deduction under clause (b) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a handicapped dependant in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

(b) the assessee nominates either the handicapped dependant or any other person or a trust to receive the payment on his behalf, for the benefit of the handicapped dependant.

(3) If the handicapped dependant predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (b) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) In this section,—

(a) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants;

(b) "handicapped dependant" means a person who-

(i) is a relative of the individual or, as the case may be, is a member of the Hindu undivided family and is not dependant on any person other than such individual or Hindu undivided family for his support or maintenance; and

(ii) is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a permanent physical disability or mental retardation specified in the rules made by the Board for the purposes of this section, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such person's capacity for normal work or engaging in a gainful employment or occupation;

(c) "Life Insurance Corporation" shall have the same meaning as in clause (iii) of sub-section (8) of section 88;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963.'

52 of 1963.

33. In section 80G of the Income-tax Act with effect from the 1st day of April, 1999, namely:—

Amendment of section 80G.

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

(b) in sub-section (2), in clause (a), after sub-clause (iiihf), the following sub-clause shall be inserted, namely:—

"(iiihg) the National Sports Fund to be set up by the Central Government; or".

34. After section 80G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1998, namely:—

Insertion of new section 80GG.

Deductions in respect of rents paid.

'80GG. In computing the total income of an assessee, not being an assessee having any income falling within clause (13A) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent. of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed two thousand rupees per month or twenty-five per cent. of his total income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations:

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is,—

(i) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(ii) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under sub-clause (i) of clause (a) or, as the case may be, clause (b) of sub-section (2) of section 23.

Explanation.—In this section, the expressions “ten per cent. of his total income” and “twenty-five per cent. of his total income” shall mean ten per cent. or twenty-five per cent, as the case may be, of the assessee’s total income before allowing deduction for any expenditure under this section.’

Insertion of new section 80HHBA.

35. After section 80HHB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Deduction in respect of profits and gains from housing projects in certain cases.

'80HHBA. (1) Where the gross total income of an assessee being an Indian company or a person (other than a company) who is a resident in India includes any profits and gains derived from the execution of a housing project awarded to the assessee on the basis of global tender and such project is aided by the World Bank, 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 fifty per cent. thereof.

(2) The deductions under this section shall be allowed only if the following conditions are fulfilled, namely:—

(i) the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the housing project undertaken by him and, where the assessee is a person other than an Indian company or a co-operative society, such accounts have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes along with his return of income the report of such audit in the prescribed form duly signed and verified by such accountant;

(ii) an amount equal to fifty per cent. of the profits and gains referred to in sub-section (1) is debited to the profits and loss account of the previous year in respect of which the deduction under this section is to be allowed and credited to a reserve account (to be called the Housing Projects Reserve Account) to be utilised by the assessee during a period of five years next following for the purposes of his business other than for distribution by way of dividends or profit:

Provided that where the amount credited by the assessee to the Housing Projects Reserve Account in pursuance of clause (ii) is less than fifty per cent. of the profits and gains referred to in sub-section (1), the deduction under this section shall be limited to the amount so credited in pursuance of clause (ii).

(3) If at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilises the amount credited to the Housing Projects Reserve Account for distribution by way of dividends or profit or for any other purpose which is not a purpose of the business of the assessee, the deduction originally allowed under sub-section (1) shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment and the provision of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the money was so utilised.

(4) Notwithstanding anything contained in any other provision of this Chapter under heading “C.- Deduction in respect of certain incomes”, no part of the income payable to the assessee for the execution of a housing project under sub-section (1) shall qualify for deduction for any assessment year under any other provision.

Explanation.—For the purposes of this section,—

(a) “housing project” means a project for-

(i) the construction of any building, road, bridge or other structure in any part of India;

(ii) the execution of such other work (of whatever nature) as may be prescribed;

(b) "World Bank" means the International Bank for Reconstruction and Development Bank referred to in the International Monetary Fund and Bank Act, 1945'.

36. In section 80HHD of the Income-tax Act, after sub-section (6), and before the *Explanation*, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1990, namely:— Amendment of section 80HHD.

'(7) Where a deduction under sub-section (1) is claimed and allowed in respect of profits derived from the business of a hotel, such part of profits shall not qualify to that extent for deduction for any assessment year under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", and shall in no case exceed the profits and gains of such hotel.'

37. In section 80-IA of the Income-tax Act,—

Amendment of section 80-IA.

(a) in sub-section (1), with effect from the 1st day of April, 1999,—

(i) after the words "basic or cellular", the words "including radio paging and domestic satellite service" shall be inserted;

(ii) after the words "commercial production", the words "or refining" shall be inserted;

(b) in sub-section (2),—

(i) in clause (iii), in the proviso, for the words, figures and letters "ending on the 31st day of March, 1998", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(ii) in clause (iv), in sub-clause (b),—

(A) for the words, figures and letters "ending on the 31st day of March, 1998", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(B) in the proviso, for the figures "2000", the figures "2003" shall be substituted with effect from the 1st day of April, 1999;

(iii) in sub-clause (c), for the words, figures and letters "ending on the 31st day of March, 1999", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(c) in sub-section (4C), after the words "basic or cellular", the words "including radio paging and domestic satellite service" shall be inserted with effect from the 1st day of April, 1999;

(d) in sub-section (4E), the following proviso shall be inserted, with effect from the 1st day of October, 1998, namely:—

"Provided that the provisions of this section shall apply in case of refining of mineral oil where the undertaking begins refining on or after the 1st day of October, 1998.";

(e) in sub-section (6),—

(i) in clause (vi), after the words "basic or cellular", the words "including radio paging and domestic satellite service" shall be inserted with effect from the 1st day of April, 1999;

(ii) in clause (vii), after the words "commercial production", the words "or refining" shall be inserted with effect from the 1st day of October, 1998;

(f) after sub-section (9), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991, namely:—

'(9A) Where any amount of profits and gains of an industrial undertaking or of a hotel in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", and shall in no case exceed the profits and gains of the undertaking or hotel, as the case may be.';

(g) in sub-section (12),—

(i) clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted, with effect from the 1st day of April, 1999, namely:—

'(a) "domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service.';

(ii) in clause (c), with effect from the 1st day of April, 1999,—

(A) in sub-clause (4), after the words "basic or cellular", the words "including radio paging and domestic satellite service" shall be inserted;

(B) in sub-clause (6), after the words "commercial production", the words "or refining" shall be inserted;

(iii) in clause (ca), with effect from the 1st day of April, 1999,—

(A) in sub-clause (i), after the word “port,”, the words “inland waterways and inland ports,” shall be inserted ;

(B) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) a housing project approved by the prescribed authority under schemes notified by the Central Government.”.

Insertion of new section 80JJA.

38. After section 80JJ of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Deduction in respect of profit and gains from business of collecting and processing of bio-degradable waste.

“80JJA. Where the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for generating power, producing bio-gas, making pellets or briquettes for fuel or organic manure, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to the whole of such income, or five lakh rupees, whichever is less.”.

Insertion of new section 80JJAA.

39. After section 80JJA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Deduction in respect of employment of new workmen.

‘80JJAA. (1) Where the gross total income of an assessee, being an Indian company, includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent. of additional wages paid to the new regular workmen employed by the assessee during the previous year.

(2) No deduction under sub-section (1) shall be allowed—

(a) if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking;

(b) unless the assessee furnishes alongwith the return of income the report of the accountant, as defined in the *Explanation* below sub-section (2) of section 288 giving such particulars in the report as may be prescribed.

Explanation.—For the purposes of this section, the expressions,—

(i) “additional wages” means the wages paid to the new workmen in excess of one hundred workmen employed during the previous year:

Provided that in the case of an existing undertaking, the additional wages shall be *nil* if the increase in the number of regular workman employed during the year is less than ten per cent. of existing number of workmen employed in such undertaking as on the last day of the preceding year;

(ii) “regular workman”, does not include—

(a) a casual workman; or

(b) a workman employed through contract labour; or

(c) any other workman employed for a period of less than three hundred days during the previous year;

(iii) “wages” means the minimum rate of wages fixed under section 3 of the Minimum Wages 11 of 1948. Act, 1948;

(iv) “workman” shall have the meaning assigned to it in clause (s) of section (2) of the Industrial Disputes Act, 1947. 14 of 1947.

Amendment of section 80P.

40. In section 80P of the Income-tax Act, in sub-section (2), in clause (c), with effect from the 1st day of April, 1999,—

(a) in sub-clause (i), for the words “forty thousand rupees”, the words “one hundred thousand rupees” shall be substituted;

(b) in sub-clause (ii), for the words “twenty thousand rupees”, the words “fifty thousand rupees” shall be substituted.

- 41.** In section 116 of the Income-tax Act, after clause (cc), the following clause shall be inserted with effect from the 1st day of October, 1998, namely:— Amendment of section 116.
- ‘(cca) “Joint Directors of Income-tax or Joint Commissioners of Income-tax”;
- 42.** In section 139 of the Income-tax Act, in sub-section (1), with effect from the 1st day of August, 1998,— Amendment of section 139.
- (a) in the proviso,—
- (i) for the word “two”, the word “one” shall be substituted;
- (ii) after clause (iv), the following clauses shall be inserted, namely:—
- ‘(v) is the holder of the credit card, not being an “add-on” card, issued by any bank or institution; or
- (vi) is a member of a club where entrance fee charged is twenty-five thousand rupees or more.’;
- (b) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—
- ‘*Explanation 4.*—For the purposes of this sub-section, the expression “travel to any foreign country” does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.’.
- 43.** In section 139A of the Income-tax Act, with effect from the 1st day of August, 1998,— Amendment of section 139A.
- (a) in sub-section (5), in clause (c), after the proviso, the following proviso shall be inserted, namely:—
- “Provided further that a person shall quote General Index Register Number till such time Permanent Account Number is not allotted to such person;”;
- (b) in sub-section (6), after the words “the Permanent Account Number”, the words “or the General Index Register Number” shall be inserted;
- (c) in sub-section (8),—
- (i) in clause (b), after the words “Permanent Account Number”, the words “or the General Index Register Number” shall be inserted;
- (ii) after clause (c), the following clauses shall be inserted, namely:—
- “(d) class or classes of person to whom the provisions of this section shall not apply;
- (e) the form in which the person who has not been allotted a Permanent Account Number or who does not have General Index Register Number shall make his declaration.”;
- (d) in the *Explanation* at the end, after clause (c), the following clause shall be inserted, namely:—
- ‘(d) “General Index Register Number” means a number given by an Assessing Officer to an assessee in the General Index Register maintained by him and containing the designation and particulars of the ward or circle or range of the Assessing Officer.’.
- 44.** In section 143 of the Income-tax Act, in sub-section (3), for the words “determine the sum payable by him”, the words “determine the sum payable by him or refund of any amount due to him” shall be substituted with effect from the 1st day of October, 1998. Amendment of section 143.
- 45.** After section 145 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1986, namely:— Insertion of new section 145A.
- ‘145A. Notwithstanding anything to the contrary contained in section 145 (as it stood immediately before the 1st day of April, 1995), the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head “Profits and gains of business or profession” shall be— Method of certain cases.
- (a) in accordance with the method of accounting regularly employed by the assessee; and
- (b) further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.
- Explanation.*—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.’.

Amendment
of section
158BA.

46. In section 158BA of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, namely:—

"Explanation.—For the removal of doubts, it is hereby declared that—

- (a) the assessment made under this Chapter shall be in addition to the regular assessment in respect of each previous year included in the block period;
- (b) the income assessed in any regular assessment shall not be included in the block period;
- (c) the income assessed in this Chapter shall not be included in the regular assessment of every previous year included in the block period."

Amendment
of section
158BB.

47. In section 158BB of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (b), after the words "by whatever name called", the words "to any partner not being a working partner" shall be inserted with effect from the 1st day of April, 1999.

Amendment
of section
158BE.

48. In section 158 BE of the Income-tax Act, after sub-section (2), the existing *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, namely:—

"Explanation 2.—For the removal of doubts, it is hereby declared that the authorisation referred to in sub-section (1) shall be deemed to have been executed,—

- (a) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued;
- (b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer."

Amendment
of section
192.

49. In section 192 of the Income-tax Act, for sub-section (2B), the following sub-section shall be substituted with effect from the 1st day of August, 1998, namely:—

'(2B) Where an assessee who receives any income chargeable under the head "Salaries" has, in addition, any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head "Income from house property) for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1) the particulars of—

- (a) such other income and of any tax deducted thereon under any other provision of this Chapter;
- (b) the loss, if any, under the head "Income from house property,"

in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take—

- (i) such other income and tax, if any, deducted thereon; and
- (ii) the loss, if any, under the head "Income from house property",

also into account for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible except where the loss under the head "Income from house property" has been taken into account, from income under the head "Salaries" below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.'

Amendment
of Chapter
XIX-B.

50. In Chapter XIX-B of the Income-tax Act, with effect from the 1st day of October, 1998,—

(a) in section 245N,—

(i) for clause (a), the following clause shall be substituted, namely:—

'(a) "advance ruling" means—

(i) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant and such determination shall include the determination of any question of law or of fact specified in the application;

(ii) a decision by the Authority in relation to an assessment which is pending before any of the Income-tax authority or the Tribunal in case of an applicant who is a resident in India and such decision shall include the decision on question of law or fact arising out of the orders of assessment in respect of which an application has been made by a resident applicant;';

(ii) for clause (b), the following clause shall be substituted, namely:—

'(b) "applicant" means a non-resident or a resident who is notified in the Official Gazette by the Central Government making an application;';

(b) in section 245R, in sub-section (2), in the proviso, after the words "allow the application", the words "except in the case of a resident applicant" shall be inserted.

51. After section 246 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Insertion of new section 246A.

'246A. (1) Any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

Appealable orders before Commissioner (Appeals).

(a) an order against the assessee where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of section 143, where the assessee objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(c) an order made under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order made under sub-section (2) or sub-section (3) of section 170;

(f) an order made under section 171;

(g) an order made under clause (B) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of an assessment for the assessment year commencing on or before the 1st day of April, 1992;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992 or any earlier assessment year;

(i) an order made under section 237;

(j) an order imposing a penalty under—

(A) section 221; or

(B) section 271, section 271A, section 271B, section 271BB, section 272A, section 272AA or section 272B;

(C) section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of an assessment for the assessment year commencing on the 1st day of April, 1998, or any earlier assessment years;

(k) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997;

(l) an order imposing a penalty under sub-section (2) of section 158BFA;

(m) an order imposing penalty under section 271B or section 271BB;

(n) an order made by a Deputy Commissioner imposing a penalty under section 271C, section 271D or section 271E;

(o) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(p) an order made by a Deputy Commissioner imposing a penalty under section 272AA;

(q) an order imposing a penalty under Chapter XXI;

(r) an order made by an Assessing Officer other than a Deputy Commissioner under the provisions of this Act in the case of such person or classes of person, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations direct.

Explanation.—For the purposes of this sub-section, where the post of Deputy Commissioner has been redesignated as Joint Commissioner on or after the 1st day of October, 1998, the references in this sub-section for "Deputy Commissioner" shall be substituted by "Joint Commissioner".

(2) Notwithstanding anything contained in sub-section (1) of section 246, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeals and which is so pending shall stand transferred on that date to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.

Explanation.—For the purposes of this section, “appointed day” means the day appointed by the Central Government by notification in the Official Gazette.’.

Amendment
of section
249.

52. In section 249 of the Income-tax Act, with effect from the 1st day of October, 1998,—

(a) in sub-section (1), after the words “verified in the prescribed manner”, the following words, letters, brackets and figures shall be inserted, namely:—

“and shall, in case of an appeal made to the Commissioner (Appeals) on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto be accompanied by a fee of,—

(i) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one hundred thousand rupees or less, two hundred fifty rupees;

(ii) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, five hundred rupees;

(iii) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one thousand rupees.”;

(b) in sub-section (3) and in the proviso to sub-section (4), the words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” shall be omitted.

Amendment
of section
252.

53. In section 252 of the Income-tax Act,—

(a) in sub-section (2),—

(i) for the words “Central Legal Service”, the words “Indian Legal Service” shall be substituted;

(ii) for the word and figure “Grade I”, the word and figures “Grade II” shall be substituted;

(b) in sub-section (2A), for the words “Commissioner of Income-tax”, the words “Additional Commissioner of Income-tax” shall be substituted.

Amendment
of section
253.

54. In section 253 of the Income-tax Act, with effect from the 1st day of October, 1998,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against,—

(a) an order passed by a Deputy Commissioner (Appeals) under sub-section (1) of section 246 on or before the 1st day of October, 1998, or as the case may be, by a Commissioner (Appeals) under section 154, section 250, section 271, section 271A or section 272A; or

(b) an order passed by an Assessing Officer under clause (c) of section 158BC in respect of search initiated under section 132 or books of account, other documents or any assets, requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or

(c) an order passed by a Commissioner (Appeals) on or after the 1st day of October, 1998 under any provision of section 246A;

(d) an order passed by a Commissioner under section 263 or under section 272A or an order passed by him under section 154 amending his order under section 263 or an order passed by a Chief Commissioner or a Director-General or a Director under section 272A.

(2) The Commissioner may, if he objects to—

(a) any order passed on or before the 1st day of October, 1998 by a Deputy Commissioner (Appeals) or an order passed by a Commissioner (Appeals) under section 154 or section 250;

(b) any order passed by a Commissioner (Appeals) on or after the 1st day of October, 1998 under any one of the provisions of sub-section (1) or sub-section (2) of section 246A,

direct the Assessing Officer to appeal to the Appellate Tribunal against the order.”;

(b) in sub-section (4), the words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” shall be omitted;

(c) for sub-section (6), the following sub-sections shall be substituted, namely:—

“(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

(a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,

(b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,

(c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent. of the assessed income, subject to a maximum of ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).

(7) An appeal for stay of demand shall be accompanied by a fee of five hundred rupees.”.

55. In section 254 of the Income-tax Act, in sub-section (2), after the first proviso, the following proviso shall be inserted with effect from the 1st day of October, 1998, namely:—

Amendment of section 254.

“Provided further that any application filed by the assessee in this sub-section on or after the 1st day of October, 1998, shall be accompanied by a fee of fifty rupees.”.

56. In section 255 of the Income-tax Act, in sub-section (3), for the words “does not exceed one hundred thousand rupees”, the words “does not exceed five hundred thousand rupees” shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 255.

57. In section 256 of the Income-tax Act, in sub-section (1), for the words and figures “an order under section 254”, the words, figures and letters “an order passed on or before the 1st day of October, 1998, under section 254” shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 256.

58. In section 257 of the Income-tax Act, for the words and figures “an application made under section 256”, the words, letters and figures “an application made on or before the 1st day of October, 1998 under section 256” shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 257.

59. In section 260 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of October, 1998, namely:—

Amendment of section 260.

“(1A) Where the judgment of the High Court in an appeal filed before it is varied or reversed on an appeal, the effect shall be given to the order passed on an appeal by the Supreme Court.”.

60. In Chapter XX of the Income-tax Act, after sub-heading ‘C’, the following sub-heading and sections shall be inserted with effect from the 1st day of October, 1998, namely:—

Insertion of new sub-heading and sections in Chapter XX.

“CC. Appeals to High Court

260A. (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

Appeal to High Court.

(2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal and, where the appeal is made by the assessee, shall be accompanied by a fee of ten thousand rupees and shall be made within sixty days of the date on which the order is communicated to him.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

260B. (1) When an appeal has been filed before the High Court under section 260A, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

Case before High Court to be heard by not less than two Judges.

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.”

Amendment of section 261.

61. In section 261 of the Income-tax Act, for the words and figures- “delivered on a reference made under section 256”, the words, letters and figures “delivered on a reference made under section 256 on or before the 1st day of October, 1998 or an appeal made to the High Court after that date” shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 264.

62. In section 264 of the Income-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:—

“(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision:

Provided that where an order on an application for revision is not passed by the Commissioner within the period mentioned in this sub-section, then, it shall be presumed as if the application for revision has been allowed and all the consequences shall follow accordingly.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in the case of an order which has been passed in consequences of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, High Court or the Supreme Court.”.

Substitution of new section for section 271F.

63. For section 271F of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1999, namely:—

“271F. If a person who is required to furnish a return of his income, as required under sub-section (1) of section 139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of one thousand rupees:

Provided that a person who is required to furnish a return of his income, as required by the proviso to sub-section (1) of section 139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of five hundred rupees.”.

Amendment of section 272A.

64. In section 272A of the Income-tax Act, in sub-section (2), in the proviso, after the words “in relation to”, the words, figures and letter “a declaration mentioned in section 197A, a certificate as required by section 203 and” shall be inserted with effect from the 1st day of April, 1999.

Amendment of section 285B.

65. In section 285B of the Income-tax Act, for the words “five thousand rupees”, the words “twenty-five thousand rupees” shall be substituted with effect from the 1st day of April, 1999.

Amendment of First Schedule.

66. In the First Schedule to the Income-tax Act, in rule 5, in clause (a), for the words “any expenditure or allowance”, the words “any expenditure or allowance including any amount debited to the profit and loss account either by way of a provision for any tax, dividend, reserve or any other provision as may be prescribed” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989.

Consequential amendments.

67. The following amendments (being consequential in nature) shall be made in the Income-tax Act, namely:—

(a) in sections 119, 154, 177, 189, 267, 271, 271A, 275 and 295, the words and brackets “Deputy Commissioner (Appeals) or the”, wherever they occur, shall be omitted with effect from the 1st day of October, 1998;

(b) in sections 248, 250, 251 and 287, the words and brackets “Deputy Commissioner (Appeals) or, as the case may be, the” shall be omitted with effect from the 1st day of October, 1998.