

FINANCE ACT, 1975

25 of 1975

[12th May, 1975]

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FINANCE ACT, 1975

25 of 1975

[12th May, 1975]

An Act to give effect to the financial proposals of the Central Government for the financial year 1975-76 Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called The Finance Act, 1975.

(2) Save as otherwise provided in this Act, section 2 to Rule 30 shall be deemed to have come into force on the 1st day of April, 1975.

CHAPTER 2

RATES OF INCOME-TAX

2. Income-tax :-

(1) Subject to the provisions of sub-sections (2), (3) and (4) for the assessment year commencing on the 1st day of April, 1975, income-tax shall be charged at the rates specified in part I of the First Schedule and shall be increased,-

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which Paragraphs E and F of that Part apply, by a surcharge, calculated in each case in the manner provided therein.

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

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first six thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income, and

(b) the income-tax chargeable shall be calculated as follows:--

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rate specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of six thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount by which income-tax determined in accordance

with sub-clause (i) exceeds the amount of income-tax determined in accordance with sub-clause (ii) shall be the income-tax chargeable in respect of the total income.

(3) Where in the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act 1956. the total income includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated-

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business; and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income.

(4) In cases to which Chapter XII or Section 164 of the Income tax Act, 1961 (hereinafter referred to as the Income-tax Act) applies, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

(5) In cases in which tax has to be deducted under sections 193, Section 194 OF THE INCOME TAX ACT, 1961 , Section 194A OF THE INCOME TAX ACT, 1961 . Section 194B OF THE INCOME TAX ACT, 1961 , Section 194D OF THE INCOME TAX ACT, 1961 and Section 195 of the Income Tax Act, 1961 at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) Subject to the provisions of sub-section (7), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of Section 132 of the Income tax Act, 1961 or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-s. (9) of S. 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income tax or, as the case may be, "advance

tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule: Provided that in respect of any income chargeable to tax under Section 164 of the Income tax Act, 1961 at the rate of sixty-five per cent., "advance tax" shall be computed at that rate.

(7) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds six thousand rupees, then, in calculating income-tax under the First proviso to sub-section (5) of Section 132 of the Income tax Act, 1961 or in charging income-tax under sub-section (2) of section 174 or section 176 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,-

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the First six thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows :--

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of six thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (i) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (ii) shall be the income-tax or "advance tax" in respect of the total income.

(8) For the purposes of this section and the First Schedule,-

(a) "company in which the public are substantially interested" means a company which is such a company as if referred to in Section 108 of the Income tax Act, 1961 ;

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1975, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.

(d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance),

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule':

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(g) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER 3

DIRECT TAXES

3.3 :-

made amendments to Ss. 10, Section 32 OF THE INCOME TAX ACT, 1961 , Section 33A OF THE INCOME TAX ACT, 1961 , Section 40A OF THE INCOMETAX ACT, 1961 , Section 43 OF THE INCOME TAX ACT, 1961 Section 52 OF THEINCOME TAX ACT, 1961 , Section 80C OF THE INCOME TAX ACT, 1961 , Section 80FF OF THE INCOME TAX ACT, 1961 , Section 80J OF THE INCOME TAX ACT, 1961 , Section 80K OF THE INCOME TAX ACT, 1961 , S.80M OF THE INCOME TAXACT, 1961. Section 80QQ OF THE INCOME TAX ACT, 1961 , Section 172 OF THEINCOME TAX ACT, 1961 , Section 194A OF THE INCOME TAX ACT, 1961 ,Section 195 OF THE INCOME TAX ACT, 1961 . Ninth Schedule: and inserted new sections Section 44B OF THE INCOME TAX ACT, 1961 , Section 80JJ OF THE INCOME TAX ACT, 1961 , Section 80RRA OF THE INCOME TAX ACT, 1961 and Tenth Schedule and substituted S. 106: section 24 made consequential amendments in certain sections of the I.-T. Act. All these incorporated in the Income-tax Act subject to subsequent amendments made and hence not printed here--Ed.

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Amendments incorporated in the Wealth-tax Act, 1957.

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27. . :-

28. . :-

29. Amendment of Act 18 of 1958. S.4 :-

Incorporated in the Principal Act]

30. Amendment of Act 20 of 1974 :-

Incorporated in the principal Act]

CHAPTER 4

INDIRECT TAXES

31. Auxiliary duties of customs :-

(1) In the case of goods mentioned in the First Schedule to Indian Tariff Act, 1934 (hereinafter referred to as the Tariff -Act) or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to twenty percent, of the value of the goods a. determined in accordance with the provisions of S.14 of Customs Act, 1962(hereinafter referred to as the Customs Act.)

(2) Sub-section (i) shall cease to have effect after the 30th day of June, 1976 except as respects things done or omitted to be done before such cesser: and S.6 of the General Clauses Act. 1897, shall apply upon such cesser as if the said .sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of customs referred to in sub-section (1)

shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(4) The provisions of the Customs Act, and the rules and regulations made thereunder including those relating to refunds and exemptions: from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

32. Amendment of Act 1 of 1949 :-
(Since repealed.)

33. Amendment of Act 1 of 1944 :-
Already incorporated in the principal Act printed in Vol. 2.

34. Auxiliary duties of excise :-
" -

(1) In the case of goods mentioned in the First Schedule to the Central Excises Act, or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of excise an amount equal to twenty per cent. of the value of the goods as determined in accordance with the provisions of S.4 of the Central Excises Act, 1944.

(2) Sub-section (1) shall cease to have effect after the 30th day of June, 1976, except as respects things done or omitted to be done before such cesser. and Section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act, or any other law for the time being in force.

(4) The auxiliary duties of excise leviable under sub-section (1) in the financial year 1975- 76 shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States and the auxiliary duties of excise leviable under sub-section (1) in the financial year 1976-77 shall, for the purposes of S.2 of the

Union Duties of Excise (Distribution) Act, 1962, be deemed to be auxiliary duties of excise levied and collected under the Finance Act of the financial year 1976-77 and the provisions of the 1962 Act, aforesaid shall apply accordingly.

(5) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

35. Amendment of Act 58 of 1957 :-
(Incorporated in the Act.)

36. Discontinuance of salt duty :-

For the year beginning on the 1st day of April, 1975, no duty under the Central Excises Act or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

37. Special provisions as to duties of excise on skelp :-

(1) Notwithstanding any judgment, decree or order of any court, in all Central laws, providing for or relating to the levy on iron or steel products of duties of excise, as in force during or at any time during the period commencing with the appointed day and ending with the 28th day of February 1975-

(I) and reference to strips shall be construed as including and as having always included skelp as defined in Explanation 2 unless such Central law excluded, expressly or by necessary implication, skelp from strips; and

(II) any reference to skelp shall be construed as having and having always had the meaning assigned to it in Explanation 2, and accordingly-

(a) all duties of excise levied, assessed or collected or purporting to have been levied, assessed or collected on skelp, as defined in Explanation 2, under any such Central law shall be deemed to be as validly levied, assessed or collected as if the provisions of this section had been in force at all material times when such duties of excise were levied, assessed or collected;

(b) no suit or other proceeding shall be maintained or continued in

any court for the refund of, and no enforcement shall be made by any court of any decree or order directing the refund of, any such duties of excise which have been collected and which would have been validly collected if the provisions of this section had been in force at all material times when such duties were collected',

(c) refund shall be made of all such duties of excise which have been collected but which would not have been collected if the provisions of this section had been in fore at all material times when such duties were collected; and

(d) recoveries shall be made of all such duties of excise which have not been collected but which would have been collected if the provisions of this section had been in force as from the appointed day.

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

CHAPTER 5

CENTRAL SALES TAX

38. Amendment of Act 74 of 1956 :-

S. . .- (Incorporated in the Act.)

SCHEDULE 1

1

1. Rule 1 :-

Agricultural income of the nature referred to in sub-clause (a) of clause (1) of Section 2 of the Income tax Act, 1961 shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to Section 59 OF THE INCOME TAX ACT, 1961 of that Act shall, so far as may be, apply accordingly: Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

2. Rule 2 :-

Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1) of Section 2 of the Income tax Act, 1961 [other than income derived from any building required as a

dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30 . Section 31 OF THE INCOME TAX ACT, 1961 , Section 32 OF THE INCOME TAX ACT, 1961 . Section 34 OF THE INCOME TAX ACT, 1961 , Section 36 OF THE INCOME TAX ACT, 1961, Section 37 OF THE INCOME TAX ACT, 1961 , Section 38 OF THE INCOME TAX ACT, 1961 , Section 40 OF THE INCOME TAX ACT, 1961 . Section 40A OF THE INCOME TAX ACT, 1961 [other than sub-sections (3) and (4) thereof]. 41, 43 and 43A of the Income- tax Act shall, so far as may be. apply accordingly.

3. Rule 3 :-

Agricultural income of the nature referred to in sub-clause (c) of clause (1) of Section 2 of the Income tax Act, 1961 . being income derived from any building require as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in 'the said sub-cl, (c) shall be computed.as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to Section 27 OF THE INCOME TAX ACT, 1961 of that Act shall, so far as may be. apply accordingly : Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to "total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VIA" shall be omitted.

4. Rule 4 :-

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

5. Rule 5 :-

Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (b) of Section 183 of the Income tax Act, 1961 , which in the previous year has any agricultural income, or is a partner of an unregistered

firm which has not been assessed as a registered firm under clause (b) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income then. the agricultural income or loss of the firm shall be computed .in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-s. (2) and sub- section (3) of Section 67 of the Income tax Act, 1961 and the share so computed shall be regarded as the agricultural income or loss or the assessee.

6. Rule 6 :-

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

7. Rule 7 :-

Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income : Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of Section 183 of the Income tax Act, 1961 or is a member of an association of persons or body of individuals and the share of the assessee in 'the agricultural income of the firm, association or body. as the case may be. is a loss. such loss shall not be set off against any income of the assessee from any other source of agricultural income.

8. Rule 8 :-

Any sum payable by the assessee on account of any tax levied by

the State Government on the agricultural income shall be deducted in computing the agricultural income.

8. Rule 9. :-

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

10. Rule 10 :-

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

11. Rule 11 :-

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

12. Rule 12 :-

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