

Finance Act, 2004

13 of 2004

[February 12, 2004]

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An Act to continue for the Financial Year 2004-05 the existing rates of income tax and the levy of the National Calamity Contingent Duty and the National Calamity Contingent Duty of Customs on certain items Be it enacted by Parliament in the Fifty-fifth 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, 2004.

(2) Section 2 shall come into force on the 1st day of April, 2004
Section 3 shall come into force at once.

CHAPTER 2
RATES OF INCOME TAX

2. Income tax :-

The provisions of Section 2 of, and the First Schedule to, the Finance Act, 2003 (32 of 2003), shall apply in relation to income tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2004, as they apply in

relation to income tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2003, with the following modifications, namely:

(a) in Section 2 ,

(i) in sub-section (1), for the figures "2003", the figures "2004" shall be substituted;

(ii) in sub-section (3),

(A) the second proviso shall be omitted;

(B) for the third proviso, the following proviso shall be substituted, namely: "Provided further that in respect of any income chargeable to tax under Section 115A, Section 115AB, Section 115AC, Section 115ACA, Section 115AD, Section 115B, Section 115BB, Section 115BBA, Section 115E and Section 115JB of the Income Tax Act, the amount of income tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such income tax where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such income tax;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of Section 2 of the Income Tax Act, at the rate of ten per cent of such income tax.";

(iii) in sub-section (6), in clause (a), for the words "exceeds rupees", the word "exceeds" shall be substituted;

(iv) in sub-section (8), in clause (a), for the words "exceeds rupees", the word "exceeds" shall be substituted;

(v) in sub-section (11), in clause (a), for the figures "2003", the figures "2004" shall be substituted.

(b) in the First Schedule ,

ii) in Part IV, in Rule 8,

(A) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:

"(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003, is a loss, then, for the purposes of sub-section (2) of Section 2 of this Act,

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the

assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2004.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2005, 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 agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004, is a loss, then, for the purposes of sub-section (10) of Section 2 of this Act,

(i) the loss so computed for the previous year relevant to the

assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any such loss has not been set off against the agricultural income for the previous year relevant to the assessment year

commencing on the 1st day of April, 2003 or the 1st day of April, 2004,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, shall be set off against the assessee for the previous year relevant to the assessment year commencing on the 1st day of April 2005"

"(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance (No.2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance Act, 1999 (27 of 1999) 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the i (32 of 2003), shall be set off under sub-rule (1) or, as the case may be, sub-rule(2)"