

FINANCE ACT, 2005

' of

[May 13, 2005]

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FINANCE ACT, 2005

' of

[May 13, 2005]

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

- (1) This Act may be called the Finance Act, 2005.
- (2) Save as otherwise provided in this Act, Sections 2 to 64 shall be deemed to have come into force on the 1st day of April, 2005.

CHAPTER 2 RATES OF INCOME TAX

2. Income tax :-

- (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2005, income tax shall be charged at the rates special.in Part I of the First Schedule and such tax as reduced by the debate of income tax calculated under Chapter VIII-A of the Income Tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income Tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.
- (2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds fifty 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 fifty 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 rates specified in 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 fifty 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 the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income tax determined in accordance with sub-clause (i) shall be reduced by the amount of income tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income tax in respect of the total income :

Provided that the amount of income tax so arrived at, as reduced by the amount of rebate of income tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or Section 115-JB or sub-section (1-A) of Section 161 or Section 164 or Section 164-A or Section 167-B of the Income Tax Act apply, 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 :

Provided that the amount of income tax computed in accordance with the provisions of Section 111-A or Section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

(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.

(4) In cases in which tax has to be charged and paid under Section 115-O or subsection (2) of Section 115-R of the Income Tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of ten per cent of such tax.

(5) In cases in which tax has to be deducted under Sections 193, 194, 194-A, 194-B, 194-BB, 194-D and 195 of the Income Tax Act, at the rates in force, the deductions shall be made at the rates specified in Pan II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under Sections 194-C, 194-E, 194-EE, 194-F, 194-G, 194-H, 194-I, 194-J, 194-LA, 196-B, 196-C and 196-D of the Income Tax Act, the deductions shall be made at the rates specified in those sections and 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 tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of Section 2 of the Income Tax Act, and domestic company, at the rate of ten per cent of such tax;

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent of such tax.

(7) In cases in which tax has to be collected under the proviso to Section 194-B of the Income Tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under Section 206-C of the Income Tax Act, the collection shall be made at the rates specified in that section and 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 tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of Section 2 of the Income Tax Act, and domestic company, at the rate of ten per cent of such tax;

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent of such tax.

(9) Subject to the provisions of sub-section (10), in cases in which income tax has to be charged under sub-section (4) of Section 172 or sub-section (2) of Section 174 or Section 174-A or Section 175 or sub-section (2) of Section 176 of the Income Tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under Section 192 of the said Act 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 charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein :

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or Section 115-JB or sub-section (1-A) of Section 161 or Section 164 or Section 164-A or Section 167-B of the Income Tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that chapter or section, as the case may

be:

(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 "advance tax" where the total income exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of Section 2 of the Income Tax Act, and domestic company, at the rate of ten per cent of such "advance tax";

(c) in the case of every company, other than domestic company, at the rate of (woand one-half per cent of such "advance tax".

(10) In cases to which, Paragraph A of Part in 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 exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh rupees, then, in charging income tax under sub-section (2) of Section 174 or Section 174-A or Section 175 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 one lakh rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income tax or, as the case may be, "advance tax" in respect of the total income; and

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as it tor me words "one lakh rupees", the words "one lakh thirty-five thousand rupees" had been substituted. Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First

Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh rupees", the words "one lakh eighty-five thousand rupees" had been substituted:

(11) The amount of income tax as specified in sub-sections (1) to (10) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the "Education Cess on income tax", so as to fulfil the commitment of the Government to provide and finance universalised quality basic education, calculated at the rate of two per cent of such income tax and surcharge.

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

(a) "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, 2005, 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;

(b) "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);

(c) "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;

(d) all other words and expressions used in this section and 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 Income tax

3. Amendment of Section 2 :-

In Section 2 of the Income Tax Act, with effect from the 1st day of April, 2006,

(a) in clause (7), in sub-clause (a), for the words "assessment of

his income", the words "assessment of his income or assessment of fringe benefits" shall be substituted;

(b) after clause (23-A), the following clause shall be inserted, namely: '(23-B) "fringe benefits" means any fringe benefits referred to in Section 115-WB;';

(c) in clause (42 A). in the proviso, after the words, brackets, figures and letter "clause (23 D; of Section 10", the words "or a zero coupon bond" shall be inserted',

(d) in clause (43), after the words "the aforesaid date", the words, figures and tletters "and in relation to the assessment year commencing on the 1st day of April, 2006, and any subsequent assessment year includes the fringe benefit tax payable under Section 115-WA" shall be inserted;

(e) in clause (47), after sub-clause (iv), the following sub-clause shall be inserted, namely: "(iv-d) the maturity or redemption of a zero coupon bond; or";

(f) after clause (47) and the Explanation relating thereto, the following shall be inserted, namely: '(48) "zero coupon bond" means a bond

(a) issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after the 1st day of June, 2005;

(b) in respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or public sector company; and

(c) which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation. For the purposes of this clause, the expressions "infrastructure capital company" and "infrastructure capital fund" shall have the same meanings respectively assigned to them in clauses (d) and (b) of Explanation 1 to clause (23-G) of Section 10.'

4. Amendment of Section 10 :-

In Section 10 of the Income Tax Act, with effect from the 1st day of April, 2006,

(a) in clause (4), in sub-clause (i/),-the second proviso shall be omitted;

(b) in clause (6-BB), for the words, figures and letters "entered into after the 31st day of March, 2005", the words, figures and letters "entered into after the 30th day of September, 2005" shall be substituted;

(c) in clause (10-D), in sub-clause (c), in the second proviso, for the words, brackets, figures and letter "Explanation to sub-section (2-A) of Section 88", the words, brackets, figures and letters "Explanation to sub-section (3) of Section 80-C or the Explanation to sub-section (2-A) of Section 88, as the case may be" shall be substituted;

(d) in clause (15), in sub-clause (iv), in item (fa), the words, figures and letters "before the 1st day of April, 2005" shall be omitted;

(e) in clause (15-A), in the proviso, for the words, figures and letters "the 1st day of April, 2005", the words, figures and letters "the 1st day of October, 2005" shall be substituted.

5. Amendment of Section 10-A :-

In Section 10-A of the Income Tax Act, in subsection (1-A), after clause (ii), the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:

"Provided that no deduction under this section shall be allowed to an asscf sec who does not furnish a return of his income on or before the due date specified un:ler subsection (1) of Section 139."

6. Amendment of Section 16 :-

In Section 16 of the Income Tax Act, clause (i) shall be omitted with efect from the 1st day of April, 2006.

7. Amendment of Section 17 :-

In Section 17 of the Income Tax Act, in clause (2), tor sub-clause (vi), the following sub-clause shall be substituted, with effect from the 1st day of April, 2006, namely: "(vi) the value of any other fringe benefit or amenity (excluding the fringe benefits chargeable to tax under Chapter XH-H) as may be prescribed:".

8. Amendment of Section 32 :-

In Section 32 of the Income Tax Act, in subsection (1),

(a) for clause (ii-a), the following clause shall be substituted with effect from the 1st day of April, 2006, namely: '(ii-a) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii):

Provided that no deduction shall be allowed in respect of

(A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or

(B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or

(C) any office appliances or road transport vehicles; or

(D) 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;';

(b) in clause (iii), in the Explanation, in clause (2), for the words "an India company", the words, brackets, letter and figures "an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of Section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (15) of Section 45 of the said Act. sanctioned and brought into force by the Central Government under subsection (7) of Section 45 of that Act, of any asset by the banking company to the banking institution" shall be substituted.

9. Amendment of Section 33-AC :-

In Section 33-AC of the Income Tax Act, in subsection (4), for the words "such sale proceeds", the words, brackets, letter and figure "so much of such sale proceeds which represent the amount credited to the reserve account and utilised for the purposes mentioned in clause (c) of sub-section (3)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

10. Amendment of Section 35 :-

In Section 35 of the Income Tax Act, in subsection (2-AB), in clause (5), for the figures, letters and words "31st day of March, 2005", the figures, letters and words "31st day of March, 2007" shall be substituted with effect from the 1st day of April, 2006.

11. Amendment of Section 35-DDA :-

In Section 35-DDA of the Income Tax Act, in sub-section (1), for the words "at the time of his voluntary retirement", the words "in connection with his voluntary retirement" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

12. Amendment of Section 36 :-

In Section 36 of the Income Tax Act, in subsection (1), with effect from the 1st day of April, 2006,

(a) after clause (iii), the following shall be inserted, namely: '(iii-a) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed. Explanation. For the purposes of this clause, the expressions

(i) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company issuing the bond and the amount payable by such company or fund or public sector company on maturity or redemption of such bond;

(ii) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) "infrastructure capital company" and "infrastructure capital fund" shall have the same meanings respectively assigned to them in clauses (a) and (b) of Explanation 1 to clause (23-G) of Section 10;';

(b) after clause (xii), the following shall be inserted, namely: '(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation. For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction"

shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005.'.

13. Amendment of Section 40 :-

In Section 40 of the Income Tax Act, in clause (a), after sub-clause (ib), the following sub-clause shall be inserted with effect from the 1st day of April, 2006, namely: "(i-c) any sum paid on account of fringe benefit tax under Chapter XII-H";

14. Amendment of Section 43 :-

In Section 43 of the Income Tax Act, in clause (5), with effect from the 1st day of April, 2006,

(A) in the proviso, (i) in clause (c), the word "or" shall be inserted at the end; (ii) after clause (c), as so amended, the following clause shall be inserted, namely: "(d) an eligible transaction in respect of trading in derivatives referred to in clause (aa) of Section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange;"

(B) after the proviso, the following Explanation shall be inserted, namely:

'Explanation. For the purposes of this clause, the expressions

(i) "eligible transaction" means any transaction,

(A) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under Section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and

(B) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (A) and permanent account number allotted under this Act;

(ii) "recognised stock exchange" means a recognised stock exchange as referred to in clause (f) of Section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils

such conditions as may be prescribed and notified by the Central Government for this purpose.'

15. Amendment of Section 47 :-

In Section 47 of the Income Tax Act, after clause (vi-a), the following clause shall be inserted, namely: '(vi-aa) any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of Section 45 of the Banking Regulation Act, 1949 (10 of 1949), of a capital asset by the banking company to the banking institution.

Explanation. For the purposes of this clause,

(i) "banking company" shall have the same meaning assigned to it in clause (c) of Section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) "banking institution" shall have the same meaning assigned to it in subsection (15) of Section 45 of the Banking Regulation Act, 1949 (10 of 1949)

16. Amendment of Section 49 :-

In Section 49 of the Income Tax Act, in subsection (1), in clause (iii), in sub-clause (e), after the words, brackets, figures and letter "or clause (vi-a)", the words, brackets, figures and letters "or clause (vi-aa)" shall be inserted.

17. Amendment of Section 54-EC :-

In Section 54-EC of the Income Tax Act, for subsection (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely: "(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),

(a) a deduction from the amount of income tax with reference to such cost shall not be allowed under Section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under Section 80-C for any assessment year beginning on or after the 1st day of April, 2006."

18. Amendment of Section 54-ED :-

In Section 54-ED of the Income Tax Act, for subsection (3), the following sub-section shall be substituted with effect from the 1st

day of April, 2006, namely: "(3) Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),

(a) a deduction from the amount of income tax with reference to such cost shall not be allowed under Section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under Section 80-C for any assessment year beginning on or after the 1st day of April, 2006."

19. Insertion of new Section 72-AA :-

After Section 72-A of the Income Tax Act, the following section shall be inserted, namely: '72-AA. Provisions relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in scheme of amalgamation of banking company in certain cases. Notwithstanding anything contained in sub-clauses (i) to (iii) of clause (1-B) of Section 72-A, where there has been an amalgamation of a banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of Section 45 of the Banking Regulation Act, 1949 (10 of 1949), the accumulated loss and the unabsorbed depreciation of such banking company shall be deemed to be the loss or, as the case may be, allowance for depreciation of such banking institution for the previous year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

Explanation. For the purposes of this section,

(i) "accumulated loss" means so much of the loss of the amalgamating banking company under the head. "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating banking company, would have been entitled to carry forward and set-off under the provisions of Section 72 if the amalgamation had not taken place;

(ii) "banking company" shall have the same meaning assigned to it in clause (c) of Section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(iii) "banking institution" shall have the same meaning assigned to

it in sub-section (15) of Section 45 of the Banking Regulation Act, 1949 (10 of 1949);

(iv) "unabsorbed depreciation" means so much of the allowance for depreciation of the amalgamating banking company which remains to be allowed and which would have been allowed to such banking company if amalgamation had not taken place.

20. Amendment of Section 73 :-

In Section 73 of the Income Tax Act, in subsection (4), for the words "eight assessment years", the words "four assessment years" shall be substituted with effect from the 1st day of April, 2006.

21. Insertion of new Section 80-C :-

After Section 80-B of the Income Tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely: '80-C. Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.

(1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the whole of the amount paid or deposited in the previous year, being the aggregate of the sums referred to in sub-section (2), as does not exceed one lakh rupees.

(2) The sums referred to in sub-section (1) shall be any sums paid or deposited in the previous year by the assessee

(i) to effect or to keep in force an insurance on the life of persons specified in sub-section (4);

(ii) to effect or to keep in force a contract for a deferred annuity, not being an annuity plan referred to in clause (xii), on the life of persons specified in sub-section (4):

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity:

(iii) by way of deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his spouse or children, in so far as the sum so deducted does not

exceed one-fifth of the salary;

(iv) as a contribution by an individual to any provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies;

(v) as a contribution to any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette, where such contribution is to an account standing in the name of any person specified in sub-section (4);

(vi) as a contribution by an employee to a recognised provident fund;

(vii) as a contribution by an employee to an approved superannuation fund;

(viii) as subscription to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf;

(ix) as subscription to any such savings certificate as defined in clause (c) of Section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(x) as a contribution, in the name of any person specified in sub-section (4), for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(xi) as a contribution in the name of any person specified in sub-section (4) for participation in any such unit-linked insurance plan of the LIC Mutual Fund notified under clause (23-D) of Section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xii) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette, specify;

(xiii) as subscription to any units of any Mutual Fund notified under clause (23-D) of Section 10 or from the Administrator or the specified company under any plan formulated in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xiv) as a contribution by an individual to any pension fund set up by any Mutual Fund notified under clause (23-D) of Section 10 or by the Administrator or the specified company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xv) as subscription to any such deposit scheme of. or as a contribution to any such pension fund set up by, the National Housing Bank established under Section 3 of the National Housing Bank Act, 1987(53 of 1987) (hereafter in this section referred to as the National Housing Bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xvi) as subscription to any such deposit scheme of

(a) a public sector company which is engaged in providing long-term finance for construction or purchase of houses in India for residential purposes: or

(b) any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xvii) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,

(a) to any university, college, school or other educational institution situated within India;

(b) for the purpose of full-time education of any of the persons specified in sub-section (4);

(xviii) for the purposes of purchase or construction of a residential house property the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the assessee's own residence, have been chargeable to tax under that head), where such payments are made towards or by way of

(a) any instalment or pan payment of the amount due under any self- financing or other scheme of any development authority, housing board or other authority engaged in the construction and

sale of house property on ownership basis; or

(b) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(c) repayment of the amount borrowed by the assessee from

(1) the Central Government or any State Government, or

(2) any bank, including a co-operative bank, or

(3) the Life Insurance Corporation, or

(4) the National Housing Bank, or

(5) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under clause (viii) of sub-section (1) of Section 36, or

(6) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or

(7) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or

(8) the assessee's employer where such employer is a public company or a public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society; or

(d) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee, but shall not include any payment towards or by way of

(A) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member, or

(B) the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion certificate in respect of the house property by the

authority competent to issue such certificate or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or been let out; or

(C) any expenditure in respect of which deduction is allowable under the provisions of Section 24;

(xix) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form.

Explanation. For the purposes of this clause,

(i) "eligible issue of capital" means an issue made .by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of Section 80-IA;

(ii) "public company" shall have the meaning assigned to it in Section 3 of the Companies Act, 1956 (1 of 1956);

(iii) "public financial institution" shall have the meaning assigned to it in Section 4-A of the Companies Act, 1956 (1 of 1956);

(xx) as subscription to any units of any mutual fund referred to in clause (23-D) of Section 10 and approved by the Board on an application made by such mutual fund in the prescribed form:

Provided that this clause shall apply if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Explanation. For the purposes of this clause "eligible issue of capital" means an issue referred to in clause (i) of the Explanation to clause (xix) of sub-section (2).

(3) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent of the actual capital sum assured.

Explanation. In calculating any such actual capital sum assured, no account shall be taken

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(4) The persons referred to in sub-section (2) shall be the following, namely:

(a) for the purposes of clauses (i), (v), (x) and (xi) of that sub-section,

(i) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(ii) in the case of a Hindu undivided family, any member thereof;

(b) for the purposes of clause (if) of that sub-section, in the case of an individual, the individual, the wife or husband and any child of such individual;

(c) for the purposes of clause (xvii) of that sub-section, in the case of an individual, any two children of such individual.

(5) Where, in any previous year, an assessee

(i) terminates his contract of insurance referred to in clause (i) of subsection (2). by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,

(a) in case of any single premium policy, within two years after the date of commencement of insurance; or

(b) in any other case, before premiums have been paid for two years; or

(ii) terminates his participation in any unit-linked insurance plan referred to in clause (x) or clause (xi) of sub-section (2), by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years; or

(iii) transfers the house property referred to in clause (xviii) of sub-section (2) before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or receives back, whether by way of refund or otherwise, any

sum specified in that clause, then,

(a) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, referred to in clauses (i), (x), (xi) and (xviii) of sub-section (2), paid in such previous year; and

(b) the aggregate amount of the deductions of income so allowed in respect of the previous year or years preceding such previous year, shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

(6) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1). are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

Explanation. A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company;

(7) For the purposes of this section,

(a) the insurance, deferred annuity, provident fund and superannuation fund referred to in clauses (i) to (vii);

(b) unit-linked insurance plan and annuity plan referred to in clauses (xii) to (xiii-a);

(c) pension fund and subscription to deposit scheme referred to in clauses (xiii-c) to (xiv-a);

(d) amount borrowed for purchase or construction of a residential house referred to in clause (xv), of sub-section (2) of Section 88 shall be eligible for deduction under the corresponding provisions of this section and the deduction shall be allowed in accordance with the provisions of this section.

(8) In this section,

(i) "Administrator" means the Administrator as referred to in clause (a) of Section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(ii) "contribution" to any fund shall not include any sums in repayment of loan;

(iii) "insurance" shall include

(a) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a Hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date notwithstanding that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(b) a policy of insurance effected by an individual or a member of a Hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(iv) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(v) "public company" shall have the same meaning as in Section 3 of the Companies Act, 1956 (1 of 1956);

(vi) "security" means a Government security as defined in clause (2) of Section 2 of the Public Debt Act, 1944 (18 of 1944);

(vii) "specified company" means a company as referred to in clause (h) of Section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(viii) "transfer" shall be deemed to include also the transactions referred to in clause (f) of Section 269-UA.'.

22. Amendment of Section 80-CCC :-

In Section 80-CCC of the Income Tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:

"(3) Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section,

(a) a rebate with reference to such amount shall not be allowed under Section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction with reference to such amount shall not be allowed under Section 80-C for any assessment year beginning on or after the 1st day of April, 2006."

23. Amendment of Section 80-CCD :-

In Section 80-CCD of the Income Tax Act, for sub-section (4), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:

(4) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (1),

(a) no rebate with reference to such amount shall be allowed under Section 88 for any assessment year ending before the 1st day of April, 2006;

(b) no deduction with reference to such amount shall be allowed under Section 80-C for any assessment year beginning on or after the 1st day of April, 2006."

24. Insertion of new Section 80-CCE :-

After Section 80-CCD of the Income Tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely: "80-CCE. Limit on deductions under Sections 80-C, 80-CCC and 80-CCD. The aggregate amount of deductions under Section 80-C, Section 80-CCC and Section 80-CCD shall not, in any case, exceed one lakh rupees."

25. Substitution of new section for Section 80-E :-

For Section 80-E of the Income Tax Act, the following section shall be substituted with effect from the 1st day of April, 2006, namely: '80-E. Deduction in respect of interest on loan taken for higher education.

(1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of interest on loan taken by him from any financial institution or any

approved charitable institution for the purpose of pursuing his higher education.

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the interest referred to in sub-section (1) is paid by the assessee in full, whichever is earlier.

(3) For the purposes of this section,

(a) "approved charitable institution" means an institution specified in, or, as the case may be, an institution established for charitable purposes and notified by the Central Government under clause (23-C) of Section 10 or an institution referred to in clause (a) of sub-section (2) of Section 80-G;

(b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in Section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) "higher education" means full-time studies for any graduate or postgraduate course in engineering, medicine, management or for postgraduate course in applied sciences or pure sciences including mathematics and statistics;

(d). "initial assessment year" means the assessment year relevant to the previous year, in which the assessee starts paying the interest on the loan.'

26. Amendment of Section 80-IA :-

In Section 80-IA of the Income Tax Act, in subsection (4), in clause (i), in sub-clause (a), after the words "consortium of such companies", the words "or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act" shall be inserted with effect from the 1st day of April, 2006.

27. Amendment of Section 80-IB :-

In Section 80-IB of the Income Tax Act, with effect from the 1st day of April, 2006,

(a) in sub-section (4), in the fourth proviso, for the figures, letters and words "31st day of March, 2005", the figures, letters and

words "31st day of March, 2007" shall be substituted;

(b) in sub-section (8-A), in clause (HI), for the figures, letters and words "1st day of April, 2005", the figures, letters and words "1st day of April, 2007" shall be substituted.

28. Omission of Section 80-L :-

Section 80-L of the Income Tax Act shall be omitted with effect from the 1st day of April, 2006.

29. Amendment of Section 88 :-

In Section 88 of the Income Tax Act, after subsection (8), the following sub-section shall be inserted with effect from the 1st day of April, 2006, namely:-- "(9) No deduction from the amount of income tax shall be allowed under this section to an assessee, being an individual or a Hindu undivided family for the assessment year beginning on the 1st day of April, 2006 and subsequent years."

30. Omission of Section 88-B :-

Section 88-B of the Income Tax Act shall be omitted with effect from the 1st day of April, 2006.

31. Omission of Section 88-C :-

Section 88-C of the Income Tax Act shall be omitted with effect from the 1st day of April, 2006.

32. Omission of Section 88-D :-

Section 88-D of the Income Tax Act shall be omitted with effect from the 1st day of April, 2006.

33. Amendment of Section 112 :-

In Section 112 of the Income Tax Act, in sub-section (1), in the proviso occurring below clause (d), after the words "being listed securities or unit", the words "or zero coupon bond" shall be inserted with effect from the 1st day of April, 2006.

34. Amendment of Section 115-A :-

In Section 115-A of the Income Tax Act, in subsection (1), in clause (b), with effect from the 1st day of April, 2006,

(i) in sub-clause (A), for the words, figures and letters "agreement made after the 31st day of May, 1997", the words, figures and letters "agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005" shall be substituted;

(ii) after sub-clause (A), the following sub-clause shall be inserted, namely: "(AA) the amount of income tax calculated on the income by way of royalty, if any, included in the total income, at the rate of ten per cent if such royalty is received in pursuance of an agreement made on or after the 1st day of June, 2005;"

(iii) in sub-clause (B). for the words, figures and letters "agreement made after the 31st day of May. 1997; and", the words, figures and letters "agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005;" shall be substituted',

(iv) after sub-clause (B), the following sub-clause shall be inserted, namely: "(BB) the amount of income tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of ten per cent if such fees for technical services are received in pursuance of an agreement made on or after the 1st day of June. 2005; and".

35. Amendment of Section 115-JAA :-

In Section 115-JAA of the Income Tax Act, with effect from the 1st day of April, 2006,

(a) after sub-section (1), the following sub-section shall be inserted, namely: "(1-A) Where any amount of tax is paid under sub-section (1) of Section 115-JB by an assessee, being a company for the assessment year commencing on the 1st day of April, 2006 and any subsequent assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.";

(b) in sub-section (2), for the words, brackets, figures and letters "under subsection (1) of Section 115-JA", the words, brackets, figures and letters "under sub-section (1) of Section 115-JA or under sub-section (1) of Section 115-JB, as the case may be", shall be substituted.

36. Amendment of Section 115-VD :-

In Section 115-VD of the Income Tax Act, clause (vii) shall be omitted with effect from the 1st day of April 2006

37. Insertion of new Chapter XII-H :-

CHAPTER XII-H

INCOME TAX ON FRINGE BENEFITS

A. Meaning of certain expressions

115-W. Definitions. In this chapter, unless the context otherwise requires,

(a) "employer" means,

(i) a company;

(ii) a firm;

(iii) an association of persons or a body of individuals, whether incorporated or not, but excluding any fund or trust or institution eligible for exemption under clause (23-C) of Section 10 or registered under Section 12-AA;

(iv) a local authority; and

(v) every artificial juridical person, not falling within any of the preceding sub-clauses;

(b) "fringe benefit tax" or "tax" means the tax chargeable under Section 115-WA.

B. Basis of charge

115-WA. Charge of fringe benefit tax: (1) In addition to the income tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income tax (in this Act referred to as fringe benefit

tax) in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees during the previous year at the rate of thirty per cent on the value of such fringe benefits.

(2) Notwithstanding that no income tax is payable by an employer on his total income computed in accordance with the provisions of this Act, the tax on fringe benefits shall be payable by such employer.

115-WB. Fringe benefits. (1) For the purposes of this chapter, "fringe benefits" means any consideration for employment provided by way of

(a) any privilege, service, facility or amenity, directly or indirectly, provided by an employer, whether by way of reimbursement or otherwise, to his employees (including former employee or employees);

(b) any free or concessional ticket provided by the employer for private journeys of his employees or their family members; and

(c) any contribution by the employer to an approved superannuation fund for employees.

(2) The fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has, in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains) incurred any expense on, or made any payment for, the following

purposes, namely:

(A)entertainment;

(B) provision of hospitality of every kind by the employer to any person,whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade but does not include

(i) any expenditure on, or payment for, food or beverages provided by the employer to his employees in office or factory;

(ii) any expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlets;

(C) conference (other than fee for participation by the employees in any conference).

Explanation.For the purposes of this clause, any expenditure on conveyance, tour and travel (including foreign travel), on hotel, or boarding and lodging in connection with any conference shall be deemed to be expenditure incurred for the purposes of conference;

(D)sales promotion including publicity:

Provided that any expenditure on advertisement,

(i) being the expenditure (including rental) on advertisement of any form in any print (including journals, catalogues or price lists)

or electronic media or transport system;

(ii) being the expenditure on the holding of, or the participation in, any press conference or business convention, fair or exhibition;

(ii) being the expenditure on sponsorship of any sports event or any other event organised by any Government agency or trade association or body;

(iv) being the expenditure on the publication in any print or electronic media of any notice required to be published by or under any law or by an order of a court or tribunal;

(v) being the expenditure on advertisement by way of signs, an work, painting, banners, awnings, direct mail, electric spectaculars, kiosks, hoardings, billboards or by way of such other medium of advertisement; and

(vi) being the expenditure by way of payment to any advertising agency for the purposes of clauses (i) to (v) above, shall not be considered as expenditure on sales promotion including publicity;

(E) employees' welfare.

Explanation. For the purposes of this clause, any expenditure incurred or payment made to fulfil any statutory obligation or mitigate occupational hazards or provide first aid facilities in the hospital or dispensary run by the employer shall not be considered as expenditure for employees' welfare;

(F) conveyance, tour and travel (including foreign travel);

(G) use of hotel, boarding and lodging facilities;

(H) repair, running (including fuel), maintenance of motor cars and the amount of

depreciation thereon;

(I) repair, running (including fuel) and maintenance of aircrafts and the amount of depreciation thereon;

(J) use of telephone (including mobile phone) other than expenditure on leased telephone lines;

(K) maintenance of any accommodation in the nature of guest-house other than accommodation used for training purposes;

(L) festival celebrations;

(M) use of health club and similar facilities;

(N) use of any other club facilities;

(O) gifts; and

(P) scholarships.

(3) For the purposes of sub-section (1), the privilege, service, facility or amenity not include perquisites in respect of which tax is paid or payable by the employee.

115-WC. Value of fringe benefits.(1) For the purposes of this chapter, the value nge benefits shall be the aggregate of the following, namely:

(a) cost at which the benefits referred to in clause (b) of sub-section (1) of Section 115-WB, is provided by the employer to the general public as reduced by the amount, if any, paid by, or recovered from, his employee or employees:

Provided that in a case where the expenses of the nature referred to in clause (b) of sub-section (1) of Section 115-WB are included in any other clause of sub-section (2) of the said section, the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in the said clause (b) for computing the value of fringe benefits;

(b) actual amount of contribution referred to in clause (c) of sub-section (1) of Section 115-WB;

(c) twenty per cent of the expenses referred to in clauses (A) to (K) of subsection (2) of Section 115-WB;

(d) fifty per cent of the expenses referred to in clauses (L) to (P) of subsection (2) of Section 115-WB.

(2) Notwithstanding anything contained in sub-section (1),

(a) in the case of an employer engaged in the business of hotel, the value of fringe benefits for the purposes referred to in clause (B) of sub-section (2) of Section 115-WB shall be "five per cent" instead of "twenty per cent" referred to in clause (c) of sub-section (1);

(b) in the case of an employer engaged in the business of construction, the value of fringe benefits for the purposes referred to in clause (F) of subsection (2) of Section 115-WB shall be "five per cent" instead of "twenty per cent" referred to in clause (c) of sub-section (1);

(c) in the case of an employer engaged in the business of manufacture or production of Pharmaceuticals, the value of fringe benefits for the purposes referred to in clauses (F) and (G) of sub-section (2) of Section 115-WB shall be "five per cent" instead of "twenty per cent" referred to in clause (c) of sub-section (1);

(d) in the case of an employer engaged in the business of manufacture or production of computer software, the value of fringe benefits for the purposes referred to in clauses (F) and (G) of sub-section (2) of Section 115-WB shall be "five per cent" instead of "twenty per cent" referred to in clause (c) of sub-section (1);

(e) in the case of an employer engaged in the business of carriage of passengers or goods by motor car, the value of fringe benefits for the purposes referred to in clause (H) of sub-section (2) of Section 115-WB shall be "five per cent" instead of "twenty per cent" referred to in clause (c) of sub-section (1);

(f) in the case of an employer engaged in the business of carriage of passengers or goods by aircraft, the value of fringe benefits for the purposes referred to in clause (1) of sub-section (2) of Section 115-WB shall be taken as nil.

C. Procedure for filing of return in respect of fringe benefits,
assessment and payment of tax in respect thereof

115-WD. Return of fringe benefits. (1) Without prejudice to the provisions contained in Section 139, every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, shall, on or before the due date, furnish or cause to be furnished a return of fringe benefits to the Assessing Officer

in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, in respect of the previous year.

Explanation. In this sub-section, due date means,

(a) where the employer is

(i) a company; or

(ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force, the 31st day of October of the assessment year;

(b) in the case of any other employer, the 31st day of July of the assessment year.

(2) In the case of any employer who, in the opinion of the Assessing Officer, is responsible for paying fringe benefit tax under this Act and who has not furnished a return under sub-section (1), the Assessing Officer may, after the due date, issue a notice

to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice, the return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(3) Any employer responsible for paying fringe benefit tax who has not furnished a return within the time allowed under sub-section (1) or within the time allowed under a notice issued under sub-section (2), may furnish the return for any previous year, at any

time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(4) If any employer, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the

assessment, whichever is earlier.

115-WE. Assessment. (1) Where a return has been made under Section 115-WD,

(i) if any tax or interest is found due on the basis of such return, after adjustment of any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under Section 156 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee:

Provided that except as otherwise provided in this sub-section, the acknowledgement of the return shall be deemed to be an intimation under this subsection where either no sum is payable by the assessee or no refund is due to him:

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

(2) Where a return has been furnished under Section 115-WD, the Assessing Officer shall, if he considers it necessary or expedient to ensure that the assessee has not understated the value of fringe benefits or has not underpaid the tax in any manner, serve

on the assessee a notice requiring him on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the assessee may rely in support of the return :

Provided that no notice under this sub-section shall be served on the assessee after the expiry of twelve months from the end of the month in which the return is furnished

(3) On the day specified in the notice issued under sub-section (2), or as

soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the value of the fringe benefits paid or payable by the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(4) Where a regular assessment under sub-section (3) or Section 115-WF is made,

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

115-WF. Best judgment assessment.(1) If any person, being an employer

(a) fails to make the return required under sub-section (1) of Section 115-WD and has not made a return under sub-section (3) or a revised return under sub-section (4) of that section, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) of Section 115-WD or fails to comply with a direction issued under subsection (2-A) of Section 142, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of Section 115-WE, the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the fringe benefits to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice as to why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (2) of Section 115-WD has been issued prior to the making of an assessment under this section.

115-WG. Fringe benefits escaping assessment. If the Assessing Officer has reason to believe that any fringe benefits chargeable to tax have escaped assessment for any assessment year, he may, subject to the provisions of Sections 115-WH, 150 and 153, assess or reassess such fringe benefits and also any other fringe benefits chargeable

to tax which have escaped assessment and which come to his notice subsequently in the

course of the proceedings under this section, for the assessment year concerned (hereafter referred to as the relevant assessment year).

Explanation. For the purposes of this section, the following shall also be deemed to be cases where fringe benefits chargeable to tax have escaped assessment, namely:

(a) where no return of fringe benefits has been furnished by the assessee;

(b) where a return of fringe benefits has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the value of fringe benefits in the return;

(c) where an assessment has been made, but the fringe benefits chargeable to tax have been under-assessed.

115-WH. Issue of notice where fringe benefits have escaped assessment. (1) Before making the assessment or reassessment under Section 115-WG, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period as may be specified in the notice, a return of the fringe benefits in respect of which he is assessable under this chapter during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this chapter shall, so far as may be, apply accordingly as if such return were a return required to be

furnished under Section 115-WD.

(2) The Assessing Officer shall, before issuing any notice under this section, record

his reasons for doing so.

(3) No notice under sub-section (1) shall be issued for the relevant assessment year after the expiry of six years from the end of the relevant assessment year.

Explanation. In determining fringe benefits chargeable to tax which have escaped assessment for the purposes of this sub-section, the provisions of the Explanation to Section 115-WG shall apply as they apply for the purposes of that section.

(4) In a case where an assessment under sub-section (3) of Section 115-WE or Section 115-WG has been made for the relevant assessment year, no notice shall be issued under sub-section (1) by an Assessing Officer, after the expiry of four years from the end of the relevant assessment year, unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

115-WI. Payment of fringe benefit tax. Notwithstanding that the regular assessment in respect of any fringe benefits is to be made in a later assessment year, the tax on such fringe benefits shall be payable in advance during any financial year, in accordance with the provisions of Section 115-WJ, in respect of the fringe benefits which would be chargeable to tax for the assessment year immediately following that

financial year, such fringe benefits being hereafter in this chapter 'referred to as the "current fringe benefits"'.

115-WJ. Advance tax in respect of fringe benefits. (1) Every assessee who is liable to pay advance tax under Section 115-WI, shall, on his own accord, pay advance tax on his current fringe benefits calculated in the manner laid down in sub-section (2). (2) The amount of advance tax payable by an assessee in the financial year shall be

thirty per cent of the value of the fringe benefits referred to in Section 115-WC, paid or payable in each quarter and shall be payable on or before the 15th day, of the month following such quarter:

Provided that the advance tax payable for the quarter ending on or the 31st day of March of the financial year shall be payable on or before the 15th day of March of the said financial year.

(3) Where an assessee has failed to pay the advance tax for any quarter or where the advance tax paid by him is less than thirty per cent of the value of fringe benefits paid or payable in that quarter he shall be liable to pay simple interest at

the rate of one per cent on the amount by which the advance tax paid falls short of, thirty per cent of the value of fringe benefits for any quarter, for every month or part of the month for which the shortfall continues.

115-WK. Interest for default in furnishing return of fringe benefits.(1) Where the return of fringe benefits for any assessment year under sub-section (1) or subsection (3) of Section 115-WD or in response to a notice under sub-section (2) of that section, is furnished after the due date, or is not furnished, the employer shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,

(a) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under Section 115-WF, on the amount of tax on the value of fringe benefits as determined under sub-section (1)

of Section 115-WE or regular assessment as reduced by the advance tax paid under Section 115-WJ.

Explanation 1. In this section, "due date" means the date specified in the Explanation to sub-section (1) of Section 115-WD as applicable in the case of the employer.

Explanation 2. Where, in relation to an assessment year, an assessment is made for the first time under Section 115-WG, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The provisions contained in sub-section (2) to (4) of Section 234-A shall, so far as may be, apply to this section.

115-WL. Application of other provisions of this Act. Save as otherwise provided in this chapter, all other provisions of this Act shall, as far as may be, apply in relation to fringe benefits also.

38. Amendment of Section 119 :-

In Section 119 of the Income Tax Act, in subsection (2), in clause (a), with effect from the 1st day of April, 2006,

(i) for the word, figures and letters "Sections 115-P, 115-S", the word, figures and letters "Sections 115-P, 115-S, 115-WD, 115-WE, 115-WF, 115-WG, 115-WH, 115-WJ, 115-WK" shall be substituted;

(ii) for the words "any class of incomes", the words "any class of incomes or fringe benefits" shall be substituted.

39. Amendment of Section 124 :-

In Section 124 of the Income Tax Act, in subsection (3), with effect from the 1st day of April, 2006,

(i) in clause (a),

(A) for the words, brackets and figures "under sub-section (1) of Section 139", the words, brackets, figures and letters "under sub-section (1) of Section 115-WD or under sub-section (1) of Section 139" shall be substituted;

(B) for the words brackets and figures "sub-section (2) of Section 143". the words brackets figures and letters "sub-section (2) of Section 115-WE or sub-section (2) of Section 143" shall be substituted;

(ii) in clause (b), for the words, brackets and figures "sub-section (1) of Section 142 or under Section 148 for the making of the return or by the notice under the first proviso to Section 144", the words, brackets, figures and letters "sub-section (2) of Section 115-WD or sub-section (1) of Section 142 or under sub-section (1) of Section 115-WH or under Section 148 for the making of the return or by the notice under the first proviso to Section 115-WF or under the first proviso to Section 144" shall be substituted.

40. Amendment of Section 139 :-

In Section 139 of the Income Tax Act,

(a) in sub-section (1), with effect from the 1st day of April, 2006,

(i) in clause (a), for the word "company", the words "company or a firm" shall be substituted;

(ii) in clause (b), for the words "other than a company", the words "other than a company or a firm" shall be substituted;

(iii) in the first proviso,

(A) for the words "at any time during the previous year", the words

"during the previous year incurs an expenditure of fifty thousand rupees or more towards consumption of electricity or at any time during the previous year" shall be substituted;

(B) clause (iii) shall be omitted;

(iv) in the third proviso for the word "company", the words "company or a firm" shall be substituted;

(v) after the third proviso, the following proviso shall be inserted, namely: "Provided also that every person being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to the provisions of Section 10-A or Section 10-B or Section 10-BA or Chapter VI-A exceeded the maximum amount which is not chargeable to income tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(b) in sub-section (9) in the Explanation, in clause (c), in sub-clause (i). for the words, figures and letters "before the 1st day of April, 2005", the words, figures and letters "before the 1st day of April, 2006" shall be substituted.

41. Amendment of Section 139-A :-

In Section 139-A of the Income Tax Act, in sub-section (1), with effect from the 1st day of April, 2006,

(a) in clause (iii), for the words, brackets, figures and letter "sub-section (4-A) of Section 139". the following shall be substituted, namely: "sub-section (4-A) of Section 139; or (iv) being an employer, who is required to furnish a return of fringe benefits under Section 115-WD,";

(b) in sub-section (7), The following Explanation shall be inserted, namely:

"Explanation. For the removal of doubts, it is hereby declared that any person, who has been allotted a permanent account number under any clause other than clause (iv) of sub-section (1), shall not be required to obtain another permanent account number and the

permanent account number already allotted to him shall be deemed to be the permanent account number in relation to fringe benefit tax."

42. Amendment of Section 140 :-

In Section 140 of the Income Tax Act, in the opening portion, for the words and figures "under Section 139", the words figures and letters under Section 115-WD or Section 139" shall be substituted with effect from the 1st day of April, 2006.

43. Amendment of Section 140-A :-

In Section 140-A of the Income Tax Act, with effect from the 1st day of April, 2006,

(a) in sub-section (1), for the word and figures "Section 139", the words, figures and letters "Section 115-WD or Section 115-WH or Section 139" shall be substituted;

(b) for sub-section (1-A), the following sub-section shall be substituted, namely: (1-A) For the purposes of sub-section (1), interest payable,

(i) under Section 234-A shall be computed on the amount of the tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted or collected at source;

(ii) under Section 115-WK shall be computed on the amount of tax on the value of the fringe benefits as declared in the return as reduced by the advance tax, paid, if any.

(c) in sub-section (2), for the word and figures "Section 143", the words, figures and letters "Section 115-WE or Section 115-WF or Section 143" shall be substituted.

44. Amendment of Section 142 :-

In Section 142 of the Income Tax Act, in subsection (1), for the words, figures and brackets "under Section 139 or in whose case the time allowed under sub-section (1) of that section", the words, figures, letters and brackets "under Section 115-WD or Section 139 or in whose case the time allowed under sub-section (1) of Section 139" shall be substituted with effect from the 1st day of April, 2006.

45. Amendment of Section 153 :-

In Section 153 of the Income Tax Act, with effect from the 1st day

of April, 2006,

(a) after sub-section (1), the following sub-sections shall be inserted, namely: . "(1-A) No order of assessment shall be made under Section 115-WE or Section 115-WF at any time after the expiry of two years from the end of the assessment year in which the fringe benefits were first assessable. (1-B) No order of assessment or reassessment shall be made under Section 115-WG after the expiry of one year from the end of the financial year in which the notice under Section 115-WH was served.

(b) the words, brackets, figures and letters "in sub-sections (1), (1-A), (1-B) and in sub-section (2-A), for the words, brackets and figures "in sub-sections (1) and (2)"(2)" shall be substituted;

(c) in sub-section (3), for the words, brackets and figures "sub-sections (1) and (2)", the words, brackets, figures and letters "sub-sections (1), (1-A), (1-B) and (2)" shall be substituted;

(d) in the proviso to Explanation 1, for the words, brackets, figures and letter "in sub-sections (1), (2) and (2-A)", the words, brackets, figures and letters "in subsections (1), (1-A), (1-B), (2) and (2-A)" shall be substituted.

46. Amendment of Section 153-B :-

In Section 153-B of the Income Tax Act, in subsection (1), after clause (b) and before the Explanation, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:

"Provided that in case of other person referred to in Section 153-C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or one year from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under Section 153-C to the Assessing Officer having jurisdiction over such other person, whichever is later.

47. Amendment of Section 153-C :-

In the Income Tax Act, with effect from the 1st day of June, 2003,

(a) Section 153-C shall be numbered as sub-section (1) thereof and in subsection (1) as so numbered, the following proviso shall be inserted and shall be deemed to have been inserted, namely:

"Provided that in case of such other person, the reference to the

date of initiation of the search under Section 132 or making of requisition under Section 132-A in the second proviso to Section 153-A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person.

(b) after sub-section

(1) as so numbered, the following sub-section shall be inserted and shall be deemed to have been inserted, namely:

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of Section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of Section 143 has been served and limitation of serving the notice under sub-section (2) of Section 143 has expired, or

(c) assessment or reassessment, if any, has been made, before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in Section 153-A.

48. Amendment of Section 194-A :-

In Section 194-A of the Income Tax Act, in subsection (3), with effect from the 1st day of June, 2005,

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

(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company;"

(ii) for the Explanation, the following Explanations shall be substituted, namely:

'Explanation 1. For the purposes of clauses (i), (vii) and (vii-a), "time deposits" means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.

Explanation 2. For the purposes of clause (x), "infrastructure capital

company" and "infrastructure capital fund" shall have the meanings respectively assigned to them in clauses (a) and (b) of Explanation 1 to clause (23-G) of Section 10.

49. Amendment of Section 194-C :-

In Section 194-C of the Income Tax Act, in sub section (3), in clause (i), with effect from the 1st day of June, 2005,

(a) in the proviso, for the words "under this section; or", the words "under this section:" shall be substituted;

(b) after the proviso, the following provisos shall be inserted, namely: "Provided further that no deduction shall be made under sub-section (2), from the amount of any sum credited or paid or likely to be credited or paid during the previous year to the account of the sub-contractor during the course of business of plying, hiring or leasing goods carriages, on production of a declaration to the person concerned paying or crediting such sum. in the prescribed form and verified in the prescribed manner and within such time as may be prescribed, if such sub-contractor is an individual who has not owned more than two goods carriages at any time during the previous year : Provided also that the person responsible for paying any sum as aforesaid to the sub-contractor referred to in the second proviso shall furnish to the prescribed income tax authority or the person authorised by it such particulars as may be prescribed in such form and within such time as may be prescribed; or"

(c) after clause (iii), the following Explanation shall be inserted, namely:

'Explanation. For the purposes of clause (i), "goods carriage" shall have the same meaning as in the Explanation to sub-section (7) of Section 44-AE.

50. Amendment of Section 199 :-

In Section 199 of the Income Tax Act, in subsection (3), for the figures, letters and words "1st day of April, 2005", the figures, letters and words "1st day of April, 2006" shall be substituted.

51. Amendment of Section 203 :-

In Section 203 of the Income Tax Act, in sub-section (3). for the figures, letters and words "1st day of April, 2005", the figures, letters and words st day of April, 2006" shall be substituted.

52. Insertion of new Section 206-A :-

After Section 206 of the Income Tax Act, the following section shall be inserted with effect from the 1st day of June, 2005, namely: "206-A. Furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

(1) Any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of Section 194-A responsible for paying to a resident any income not exceeding five thousand rupees by way of interest (other than interest on securities), shall prepare quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income tax authority or the person authorised by such authority the quarterly returns as aforesaid, in the prescribed form, verified in such manner and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

(2) The Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare and deliver or cause to be delivered quarterly returns in the prescribed form and verified in such manner and within such time as may be prescribed, to the prescribed income tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

53. Amendment of Section 206-C :-

In Section 206-C of the Income Tax Act,

(a) in sub-section (4). in the proviso, for the figures, letters and words "1st day of April. 2005". the figures. letters and words "1st day of April, 2006" shall be substituted,

(b) in sub-section (5). in the first proviso, for the figures, letters and words "1st day of April. 2005", the figures, letters and words "1st day of April, 2006" shall be substituted.

54. Amendment of Section 238 :-

In Section 238 of the Income Tax Act, after subsection

(1), the following sub-section shall be inserted with effect from the 1st day of April, 2006. namely: "(1-A) Where the value of fringe benefits provided or deemed to have been provided by one

employer is included under any provisions of Chapter XII-H in the value of fringe benefits provided or deemed to have been provided by any other employer, the latter alone shall be entitled to a refund under this chapter in respect of such fringe benefits."

55. Amendment of Section 239 :-

In Section 239 of the Income Tax Act, in subsection (2), after clause (c), the following clause shall be inserted with effect from the 1st day of April, 2006, namely: "(d) where the claim is in respect of fringe benefits which are assessable for any assessment year commencing on or after the first day of April, 2006, one year from the last day of such assessment year."

56. Amendment of Section 244-A :-

In Section 244-A of the Income Tax Act, with effect from the 1st day of April, 2006.

(a) in sub-section (1), in clause (a),

(i) for the words "out of any tax", the words, figures and letters "out of any tax paid under Section 115-WJ or" shall be substituted;

(ii) in the proviso, for the words "under sub-section", the words, brackets, figures and letters "under sub-section (1) of Section 115-WE or subsection" shall be substituted;

(b) in sub-section (3), for the words "result of an order under", the words, brackets, figures and letters "result of an order under sub-section (3) of Section 115-WE or Section 115-WF or Section 115-WG or" shall be substituted;

(c) in sub-section (4), the following proviso shall be inserted, namely:

'Provided that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures "1989", the figures "2006" had been substituted.

57. Amendment of Section 246-A :-

In Section 246-A of the Income Tax Act, in subsection (1), with effect from the 1st day of April. 2006,

(i) after clause (a), the following clauses shall be inserted, namely: "(aa) an order of assessment under sub-section (3) of Section 115-WE or Section 115-WF, where the assessee, being an employer objects to the value of fringe benefits assessed; (ab) an order of

assessment or reassessment under Section 115-WG;

(ii) in clause (j). in sub-clause (B), for the word, figures and letter "Section 271-F", the words, figures and letters "Section 271-F, Section 271-FB" shall be substituted.

58. Amendment of Section 271 :-

In Section 271 of the Income Tax Act, with effect from the 1st day of April, 2006.

(a) in sub-section (1),

(A) in clause (b), for the words, brackets and figures "under sub-section (1) of Section 142", the words, brackets, figures and letters "under sub-section (2) of Section 115-WD or under sub-section (2) of Section 115-WE or under sub-section (1) of Section 142" shall be substituted;

(B) in clause (c), for the words "such income", the words "such income, or" shall be substituted;

(C) after clause (c), the following clause shall be inserted, namely: "(d) has concealed the particulars of the fringe benefits or furnished inaccurate particulars of such fringe benefits,

(D) in sub-clause (iii),

(i) for the word, brackets and letter "clause (c) the words, brackets and letters "clause (c) or clause (d)" shall be substituted;

(ii) for the word "income", at both the places where it occurs, the words "income or fringe benefits" shall be substituted;

(b) after sub-section (5), the following sub-section shall be inserted, namely: - "(6) Any reference in this section to the income shall be construed as a reference to the income or fringe benefits, as the case may be and the provisions of this section shall, as far as may be, apply in relation to any assessment in respect of fringe benefits also."

59. Insertion of new Section 271-FB :-

After Section 271-FA of the Income Tax Act. the following section shall be inserted with effect from the 1st day of April, 2006, namely: "271-FB. Penalty for failure to furnish return of fringe benefits. If an employer, who is required to furnish a return of fringe benefits, as required under sub-section (1) of Section 115-WD, fails to furnish such return within the time prescribed under

that sub section, the Assessing Officer may direct that such employer shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues."

60. Amendme.it of Section 272-A :-

In Section 272-A of the Income Tax Act, in subsection (2), after clause (k), the following clause shall be inserted with effect from the 1st day of June, 2005, namely: "(l) to deliver or cause to be delivered the quarterly return within the time specified in sub-section (1) of Section 206-A,".

61. Amendment of Section 273-B :-

In Section 273-B of the Income Tax Act, for the word, figures and letters "Section 271-FA", the words, figures and letters "Section 271-FA, Section 271-FB" shall be substituted with effect from the 1st day of April, 2006.

62. Amendment of Section 276-CC :-

In Section 276-CC of the Income Tax Act, with effect from the 1st day of April, 2006,

(a) in the opening portion, after the words "in due time", the words, brackets, figures and letters "the return of fringe benefits which he is required to furnish under sub-section (1) of Section 115-WD or by notice given under sub-section (2) of the said section or Section 115-WH or" shall be inserted;

(b) in the proviso, for the words, brackets and figures "return of income under subsection (1) of Section 139", the words, brackets, figures and letters "return of fringe benefits under sub-section (1) of Section 115-WD or return of income under sub-section (1) of Section 139" shall be substituted.

63. Amendment of Section 278 :-

In Section 278 of the Income Tax Act, for the words "any income chargeable to tax", the words "any income or any fringe benefits chargeable to tax" shall be substituted with effect from the 1st day of April, 2006.

64. Amendment of Section 295 :-

In Section 295 of the Income Tax Act, in subsection (2), clause (e) shall be omitted with effect from the 1st day of April, 2006.

CHAPTER 4

INDIRECT TAXES Customs

65. Amendment of Section 28-E :-

In Section 28-E of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act),

(a) for clause (c), the following clause shall be substituted, namely:
'(c) "applicant" means

(i)

(a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company, who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under sub-section (1) of Section 28-H

(b) in clause (e), for the words "Authority for Advance Rulings", the words and brackets "Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

66. Amendment of Section 28-F :-

In Section 28-F of the Customs Act, in subsection

(1), for the words "the Authority for Advance Rulings", the words and brackets "the Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

67. Amendment of Section 28-H :-

In Section 28-H of the Customs Act, in subsection (2), after clause (d), the following clause shall be inserted, namely: "(e) determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975 (51 of 1975) and matters relating thereto."

68. Amendment of Section 127-MA :-

In Section 127-MA of the Customs Act,

(a) in sub-section (6), for the word, figures and letter "Section 127-C", the words, figures, letters and brackets "Section 127-C and sub-section (1) of Section 127-I" shall be substituted;

(b) after sub-section (7), the following sub-section shall be inserted, namely: "(8) The Settlement Commission may, if it is of opinion that any person who made an application under sub-section (5) has not co-operated with the proceedings before it, send the case back to the Appellate Tribunal and the provisions containing in Section 129-A, Section 129-B and Section 129-C shall, so far as may be, apply accordingly."

69. Amendment of Section 128-A :-

In Section 128-A of the Customs Act, in subsection (5), for the words "and the Commissioner of Customs", the words ", the Chief Commissioner of Customs and the Commissioner of Customs" shall be substitute d.

70. Amendment of Section 128-A :-

Amendment of Section 129-A. In Section 129-A of the Customs Act,

(a) after sub-section (1-A), the following sub-section shall be inserted, namely: "(1-B)

(i) The Board may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Act.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Customs or two Commissioners of Customs, as the case may be.

(b) in sub-section (2),

(i) for the words "The Commissioner of Customs may, if he is", the words "The Committee of Commissioners of Customs may, if it is" shall be substituted;

(ii) for the words "on his behalf, the words "on its behalf shall be substituted.

71. Amendment or Section 129-D :-

In Section 129-D of the Customs Act, for the word "Board", occurring in sub-sections (1) and (3), the words "Committee of Chief Commissioners of Customs" shall respectively be substituted.
Customs tariff

72. Substitution of new section for Section 3 :-

For Section 3 of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), the following section shall be substituted, namely: '3. Levy of additional duty equal to excise duty, sales tax, local taxes and other charges

(1) Any article which is imported into India shall, in addition, be liable to a duty (hereafter in this section referred to as the additional duty) equal to the excise duty for the time being leviable on a like article if produced or manufactured in India and if such excise duty on a like article is leviable at any percentage of its value, the additional duty to which the imported article shall be so liable shall be calculated at that percentage of the value of the imported article :

Provided that in case of any alcoholic liquor for human consumption imported into India, the Central Government may, by notification in the Official Gazette, specify the rate of additional duty having regard to the excise duty for the time being leviable on a like alcoholic liquor produced or manufactured in different States or, if a like alcoholic liquor is not produced or manufactured in any State, then, having regard to the excise duty which would be leviable for the time being in different States on the class or description of alcoholic liquor to which such imported alcoholic liquor belongs.

Explanation. In this sub-section, the expression "the excise duty for the time being leviable on a like article if produced or manufactured in India" means the excise duty for the time being in force which would be leviable on a like article if produced or manufactured in India or, if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty.

(2) For the purpose of calculating under sub-sections (1) and (3). the additional duty on any imported article, where such duty is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in Section 14 of the Customs Act, 1962 (52 of 1962), be the aggregate of

(i) the value of the imported article determined under sub-section (1) of Section 14 of the Customs Act, 1962 (52 of 1962) or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

(ii) any duty of customs chargeable on that article under Section 12 of the Customs Act 1962 (52. of 1962). and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include

(a) the duty referred to in sub-sections (1), (3) and (5);

(b) the safeguard duty referred to in Sections 8-B and 8-C

(c) the countervailing duty referred to in Section 9; and

(d) the anti-dumping duty referred to in Section 9-A: Provided that in case of an article imported into India,

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs is the goods specified by notification in the Official Gazette under sub-section (1) of Section 4-A of the Central Excise Act, 1944 (1 of 1944), the value of the imported article shall be deemed, to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of Section 4-A of the Central Excise Act, 1944 (1 of 1944).

Explanation. Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

(3) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or not] such additional duty as would counter-balance the excise duty leviable on any raw materials, components and ingredients of the same nature as, or similar to those, used in the production or manufacture of such article, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional

duty representing such portion of the excise duty leviable on such law materials, components and ingredients as, in either case, may be determined by rules made by the Central Government in this behalf.

(4) In making any rules for the purposes of sub-section (3), the Central Government shall have regard to the average quantum of the excise duty payable on the law materials, components or ingredients used in the production or manufacture of such like article.

(5) If the Central Government is satisfied that it is necessary in the public interest to levy on any imported article [whether on such article duty is leviable under sub-section (1) or, as the case may be, sub-section (3) or not) such additional duty as would counter-balance the sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India, it may, by notification in the Official Gazette, direct that such imported article shall, in addition, be liable to an additional duty at a rate not exceeding four per cent of the value of the imported article as specified in that notification.

Explanation, In this sub-section, the expression "sales tax, value added tax, local tax or any other charges for the time being leviable on a like article on its sale, purchase or transportation in India" means the sales tax, value added tax, local tax or other charges for the time being in force, which would be leviable on a like article if sold, purchased or transported in India or, if a like article is not so sold, purchased or transported, which would be leviable on the class or description of articles to which the imported article belongs, and where such taxes, or, as the case may be, such charges are leviable at different rates, the highest such tax or, as the case may be, such charge.

(6) For the purpose of calculating under sub-section (5), the additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in sub-section (2) of Section 14 of the Customs Act, 1962 (52 of 1962), be the aggregate of

(i) the value of the imported article determined under sub-section (1) of Section 14 of the Customs Act, 1962 (52 of 1962) or the tariff value of such article fixed under sub-section (2) of that section, as the case may be; and

(ii) any duty of customs chargeable on that article under Section 12 of the Customs Act, 1962 (52 of 1962), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include

(a) the duty referred to in sub-section (5);

(b) the safeguard duty referred to in Sections 8-B and 8-C;

(c) the countervailing duty referred to in Section 9; and

(d) the anti-dumping duty referred to in Section 9-A.

(7) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(8) The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

73. Omission of Section 3-A :-

Section 3-A of the Customs Tariff Act shall be omitted.

74. Amendment of First Schedule :-

In the Customs Tariff Act, the First Schedule all be amended in the manner as specified in the Second Schedule.

75. Amendment of Section 5-A :-

In Section 5-A of the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act), after sub-section (1), the following sub-section shall be inserted, namely: "(1-A) For the removal of doubts, it is hereby declared that where an exemption under sub-section (1) in respect of any excisable goods from the whole of the duty of excise leviable thereon has been granted absolutely, the manufacturer of such excisable goods shall not pay the duty of excise on such goods.

76. Amendment of Section 23-A :-

In Section 23-A of the Central Excise Act, (a) for clause (c), the following clause shall be substituted, namely: '(c) "applicant" means

(i)

(a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company, who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf. and which or who, as the case may be, makes application for advance ruling under sub-section (1) of Section 23-C;

(b) in clause (e), for the words "Authority for Advance Rulings", the words and brackets "Authority for Advance Rulings (Central Excise, Customs and Service Tax)" shall be substituted.

77. Amendment of Section 32-PA :-

In Section 32-PA of the Central Excise Act,

(a) in sub-section (6), for the word, figures and letter "Section 32-F the words, figures, letters and brackets "Section 32-F and sub-section (1) of Section 32-L" shall be substituted;

(b) after sub-section (7), the following sub-section shall be inserted, namely: "(8) The Settlement Commission may, if it is of opinion that any person who made an application under sub-section (5) has not co-operated with the proceedings before it, send the case back to the Appellate Tribunal and the provisions containing in Section 35-B, Section 35-C and Section 35-D shall, so far as may be, apply accordingly."

78. Amendment of Section 35-A :-

In Section 35-A of the Central Excise Act, in subsection (5), for the words "and the Commissioner of Central Excise", the words , the Chief Commissioner of Central Excise and the Commissioner of Central Excise" shall be substituted.

79. Amendment of Section 35-B :-

In Section 35-B of the Central Excise Act,

(a) after sub-section (1-A), the following sub-section shall be

inserted, namely: (1-B)

(i) The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963) may, by notification in the Official Gazette, constitute such Committees as may be necessary for the purposes of this Act.

(ii) Every Committee constituted under clause (i) shall consist of two Chief Commissioners of Central Excise or two Commissioners of Central Excise, as the case may be.

(b) in sub-section (2),

(i) for the words 'The Commissioner of Central Excise may, if he is', the words 'The Committee of Commissioners of Central Excise may, if it is' shall be substituted;

(ii) for the words "on his behalf, the words "on its behalf shall be substituted.

80. Amendment of Section 35-E :-

In Section 35-E of the Central Excise Act, for the word "Board", occurring in sub-sections (1) and (3), the words "Committee of Chief Commissioners of Central Excise" shall respectively be substituted.

80. Amendment of Section 35-E :-

In Section 35-E of the Central Excise Act, for the word "Board", occurring in sub-sections (1) and (3), the words "Committee of Chief Commissioners of Central Excise" shall respectively be substituted.

82. Amendment of Central Excise Rules, 1944 :-

(1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by Section 37 of the Central Excise Act,

(a) Rule 57-CC as inserted by the Central Excise (Third Amendment) Rules, 1996, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 324(E), dated the 23rd July, 1996;

(b) Rule 57-CC as substituted by the Central Excise (Amendment) Rules, 1997, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of

Revenue), No. G.S.R. 122(E), dated the 1st March, 1997; and

(c) Rule 57-D as substituted by the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette, vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 203(E), dated the 1st March, 2000, as substituted as Rule 57-AD by Rule 5 of the Central Excise [Second Amendment (Amendment)] Rules, 2000, published in the Gazette of India, vide notification of Government of India in the Ministry of Finance (Department of Revenue). No. G.S.R. 298(E), dated the 31st March, 2000, shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (3) of the Fourth Schedule on and from the corresponding date specified in column (4) of that Schedule against each of the rules specified in column (2) of that Schedule.

(2) Any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of August, 1996 and ending with the 30th day of June, 2001 under the rule as amended by sub-section (1), shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority

(a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or, as the case may be, other authority against the Central Government or Central Excise Officer for recovery of the amount under the rule as amended by sub-section (1) and no enforcement shall be made by any court, tribunal or other authority of any decree or order for non-recovery of the said amount, as if the amendments made by that sub-section had been in force at all material times;

(b) recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2005 receives the assent of the President.

(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to

have the power to make rules with retrospective effect, as if the Central Government had the power to make rules under Section 37 of the Central Excise Act, retrospectively at all material times.

Explanation. 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.

83. Amendment of Rule 6 of the CENVAT Credit Rules, 2001

:-

(1) In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by Section 37 of the Central Excise Act, Rule 6 thereof as published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R. 445(E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Fifth Schedule on and from the corresponding date specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of July, 2001 and ending with the 28th day of February, 2002 under the rule as amended by sub-section (1), shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority

(a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or, as the case may be, other authority against the Central Government or Central Excise Officer for recovery of the amount under the rule as amended by sub-section (1) and no enforcement shall be made by any court, tribunal or other authority of any decree or order for the non-recovery of the said amount, as if the amendments made by that sub-section had been in force at all material times;

(b) recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times, within a

period of thirty days from the day on which the Finance Bill, 2005 receives the assent of the President.

(3) Notwithstanding the supersession of the CENVAT Credit Rules, 2001 referred to in sub-section (!), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under Section 37 of the Central Excise Act, retrospectively at all material times.

Explanation .- 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.

84. Amendment of notification issued under Section 5-A of the Central Excise Act :-

(1) The notification of the Government of India in the Ministry of Finance (Department of Revenue), No. G.S.R.277(E), dated the 1st March, 1988, issued under sub-section (1) of Section 5-A of the Central Excise Act by the Central Government, shall stand amended and shall be deemed to have been amended in the manner as specified in the Sixth Schedule, for the period commencing on and from the 21st day of February, 2000 to the 28th day of February, 2003 (both days inclusive) retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notification as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the said notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of Section 5-A of the Central Excise Act, retrospectively, at all material times.

(3) No recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, for which demand notices have

been issued under Section 11-A or, recovery proceeding have been initiated under Section 11 of the Central Excise Act, as if the amendment made by sub-section (1). had been in force at all material times.

(4) Refund shall be made of all such duties which have been collected but which would not have been so collected if the amendment made by sub-section (1) had been in force at all material times, subject to the provisions of Section 11-B of the Central Excise Act.

(5) Notwithstanding anything contained in Section 11-B of the Central Excise Act, an application for the claim of refund of the duty of excise under sub-section (4) shall be made within one month from the day on which the Finance Bill, 2005 receives the assent of the President.

85. . Additional duty of excise (pan masala and certain tobacco products) :-

(1) In the case of goods specified in the Seventh Schedule, being goods produced or manufactured in India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of excise, at the rates specified in the said Schedule.

(2) The additional duty of excise referred to in sub-section (1) shall be in addition to any other duty of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of goods specified in the Seventh Schedule as they apply in relation to the levy and collection of the duty of excise on such goods under the Central Excise Act or, as the case may be, the rules made thereunder.

86. Amendment of First Schedule and Second Schedule :-

The Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the Central Excise Tariff Act),

(a) the First Schedule shall be amended in the manner specified in the Eighth Schedule;

(b) the Second Schedule shall be amended in the manner specified in the Ninth Schedule.

87. Amendment of Chapter 15 of First Schedule :-

(1) In the First Schedule to the - Central Excise Tariff Act, in Chapter 15, after Note 4, the following Note shall be inserted and shall be deemed to have been inserted for the period commencing on and from the 1st day of March, 1986 and ending with the 28th day of February, 2005 (both days inclusive), namely: "5. In relation to refined edible vegetable oils falling under Heading Nos. (sic) or Headings 15.02 and 15.03, the process of refining, that is to say, any one or more of the processes, namely, treatment of crude oil with an alkali, bleaching and deodorisation, shall amount to 'manufacture'."

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 1986 and ending with the 28th day of February, 2005 (both days inclusive) (hereafter in this section referred to as the said period) under the Central Excise Tariff Act, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority

(a) all duties of excise levied, assessed or collected during the said period on any excisable goods under the Central Excise Act, shall be deemed to be and shall be deemed always to have been, as validly levied, assessed or collected as if the amendment made by sub-section (1) had been in force at all material times;

(b) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority for the refund of, and no enforcement shall be made by any court, tribunal or other authority of any decree or order directing the refund of, any such duty of excise which have been collected and which would have been validly collected if the amendment made by sub-section (1) had been in force at all material times.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the chapter referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said

chapter, retrospectively, at all material times.

Explanation. 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
SERVICE TAX

88. Amendment of Act 32 of 1994 :-

In the Finance Act, 1994,

(a) in Section 65, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,

(i) in clause (9), for the words "service or repair", the words "service, repair, reconditioning or restoration" shall be substituted;

(ii) in clause (15), for the words "collecting the broadcasting charges on behalf of the said agency", the words "collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multisystem operator or any other person on behalf of the said agency" shall be substituted;

(iii) in clause (16), for the words "collecting the broadcasting charges on behalf of the said agency", the words "collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency" shall be substituted;

(iv) for clause (17), the following clause shall be substituted, namely: '(17) "beauty treatment" includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services;';

(v) in clause (19),

(i) in sub-clause (iv), the following Explanation shall be inserted, at the end. namely:

'Explanation. For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, "inputs" means all goods or services intended for use by the client;';

(ii) for sub-clause (v), the following sub-clause shall be substituted, namely: "(v) production or processing of goods for, or on behalf of, the client;";

(iii) for the Explanation, the following Explanation shall be substituted, namely:

'Explanation. For the removal of doubts, it is hereby declared that for the purposes of this clause,

(a) "commission agent" means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person

(i) deals with goods or services or documents of title to such goods or services; or

(ii) collects payment of sale price of such goods or services; or

(iii) guarantees for collection or payment for such goods or services; or

(iv) undertakes any activities relating to such sale or purchase of such goods or services;

(b) "information technology service" means any service in relation to designing, developing or maintaining of computer software, or computerised data processing or system networking, or any other service primarily in relation to operation of computer systems;

(vi) after clause (24-a), the following clause shall be inserted, namely: '(24-b) "cleaning activity" means cleaning, including specialised - cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of

(i) commercial or industrial buildings and premises thereof; or

(ii) factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof, but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying;

(vii) after clause (25), the following clauses shall be inserted,

namely: (25-a) "club or association" means any person or body of persons providing services, facilities or advantages, for a subscription or any other amount, to its members, but does not include

(i) any body established or constituted by or under any law for the time being in force; or

(ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or

(iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or

(iv) any person or body of persons associated with press or media;

(25-b) "commercial or industrial construction service" means

(a) construction of a new building or a civil structure or a part thereof; or

(b) construction of pipeline or conduit; or

(c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or

(d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit, which is

(i) used, or to be used, primarily for, or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in, commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams;

(viii) for clause (30-a), the following clause shall be substituted, namely: '(30-a) "construction of complex" means

(a) construction of a new residential complex or a part thereof; or

(b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or

(c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;

(ix) after clause (36), the following clause shall be inserted, namely: '(36-a) "dredging" includes removal of material including silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary;

(x) for clause (39-a), the following clause shall be substituted, namely: '(39-a) "erection, commissioning or installation" means any service provided by a commissioning and installation agency, in relation to,

(i) erection, commissioning or installation of plant, machinery or equipment; or

(ii) installation of

(a) electrical and electronic devices, including wirings or fittings therefor; or

(b) plumbing, drain laying or other installations for transport of fluids; or

(c) heating, ventilation or air-conditioning including related pipe work, duct work and sheet metal work; or

(d) thermal insulation, sound insulation, fire proofing or water proofing; or

(e) lift and escalator, fire escape staircases or travelators; or

(f) such other similar services;

(xi) for clause (47), the following clause shall be substituted, namely: (47) "franchise" means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name

or logo or any such symbol, as the case may be, is involved;

(xii) in clause (55-b), in sub-clause (a), for the words ", whether permanently or otherwise", the word "temporarily" shall be substituted;

(xiii) after clause (63), the following clause shall be inserted, namely: (63-a) "mailing list compilation and mailing" means any service in relation to

(i) compiling and providing list of name, address and any other information from any source; or

(ii) sending document, information, goods or any other material in a packet, by whatever name called, by addressing, stuffing, sealing, metering or mailing. for, or on behalf of, the client;

(xiv) for clause (64). the following clause shall be substituted, namely: '(64) "maintenance or repair" means any service provided by

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him. in relation to,

(a) maintenance or repair including reconditioning or restoration, or servicing of any goods or equipment, excluding motor vehicle; or

(b) maintenance or management of immovable property;

(xv) for clause (68), the following clause shall be substituted, namely: (68) "manpower recruitment or supply agency" means any commercial concern engaged in providing any service." directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to a client;

(xvi) in clause (76-a), after the words "oner than his own", the words "but including a place provided by way of tenancy or otherwise by the person receiving such services" shall be inserted;

(xvii) after clause (76-a). the following clause shall be inserted, namely: '(76-b) "packaging activity" means packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging activity that amounts to "manufacture" within the meaning of clause (f) of Section 2 of the Central Excise Act, 1944 (1 of 1944);

(xviii) after clause (91), the following shall be inserted, namely:

'(91-a) "residential complex" means any complex comprising of

(i) a building or buildings, having more than twelve residential units;

(ii) a common area; and

(iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system, located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

Explanation. For the removal of doubts, it is hereby declared that for die purposes of this clause,

(a) "personal use" includes permitting the complex for use as residence by another person on rent or without consideration;

(b) "residential unit" means a single house or a single apartment intended for use as a place of residence;

(xix) after clause (97), the following clause shall be inserted, namely: (97-a) "site formation and clearance, excavation and carthmoving and demolition" includes

(i) drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or

(ii) soil stabilization; or

(iii) horizontal drilling for die passage of cables or drain pipes; or

(iv) land reclamation work; or

(v) contaminated top soil stripping work; or

(vi) demolition and wrecking of building, structure or road, but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies;

(xx) for clause (98). the following clause todl be substituted namely: '(98) "sound recording" means recording of sound on any media or device including magnetic storage device, and includes

services relating to recording of sound in any manner such as sound cataloguing, storing of sound and sound mixing or re-mixing or any audio post-production activity;

(xxi) after clause (104-a), the following clause shall be inserted, namely: '(104-6) "survey and map-making" means geological, geophysical or any other prospecting, surface, sub-surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral;

(xxii) in clause (105),

(a) for the words "service provided", the words "service provided or to be provided" shall be substituted;

(b) for sub-clause (k) the following sub-clause shall be substituted, namely: "(k) to a client, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner;";

(c) in sub-clause (m), for the words "provided to the client in relation to such use and also the services, if any, rendered as a caterer", the words "provided or to be provided to the client in relation to such use and also the services, if any, provided or to be provided as a caterer" shall be substituted;

(d) in sub-clause (zk), for the words "collecting the broadcasting charges on behalf of the said agency", the words "collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency" shall be substituted;

(e) in sub-clause (zo), for the words "of repair of motor cars", the words ", repair, reconditioning or restoration of motor cars, light motor vehicles" shall be substituted;

(f) sub-clause (zzj) shall be omitted;

(g) in sub-clause (zzk), for the words, brackets and letters "sub-clauses (zm) and (zp)", the word, brackets and letters "sub-clause (zm)" shall be substituted;

(h) in sub-clause (zzq), for the words "construction service", the

words "commercial or industrial construction service" shall be substituted;

(i) in sub-clause (zzw), for the word "rendered", the words "provided or to be provided" shall be substituted;

(j) after sub-clause (zzy), the following sub-clauses, shall be inserted, namely:

"(zzz) to any person, by any other person, in relation to transport of goods other than water, through pipeline or other conduit:

(zzz-a) to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities;

(zzz-b) to any person, by any other person, in relation to dredging;

(zzz-c) to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making;

(zzz- d) to any person, by any other person, in relation to cleaning activity;

(zzz-e) to its members, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount;

(zzz-f) to any person, by any other person, in relation to packaging activity;

(zzz-g) to any person, by any other person, in relation to mailing list compilation and mailing;

(zzz-h) to any person, by any other person, in relation to construction of -

(k) at the end. the following Explanation shall be inserted, namely:

"Explanation. For the removal of doubts, it is hereby declared that where any service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India and such service is received or to be received by a person who has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in India, such service shall be

deemed to be taxable service for the purposes of this clause;"

(xxiii) for clause (120), the following clause shall be substituted, namely: (120) "video-tape production" means the process of any recording of any programme, event or function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, tide printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner

(b) in Section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,

(i) for the brackets and letters "(zzj), (zzk)", the brackets and letters "(zzk)" shall be substituted;

(ii) for the word, brackets and letters "and (zzy)", the brackets, letters and word ", (zzy), (zzz), (zzz-a), (zzz-b), (zzz-c), (zzz-d), (zzz-e), (zzz-f), (zzz-g) and (zzz-h)" shall be substituted;

(c) in Section 67,

(i) for the words "rendered by him", the words "provided or to be provided by him" shall be substituted;

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

"Explanation 3. For the removal of doubts, it is hereby declared that the gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.";

(d) Section 69 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely: "(2) The Central Government may, by notification in the Official Gazette, specify such other person or class of persons, who shall make an application for registration within such time and in such manner and in such form as may be prescribed.";

(e) Section 70 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely: "(2) The person or class of persons notified under sub-section (2) of Section 69, shall furnish to the

Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.";

(f) in Section 73, for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise", wherever they occur, the words "Central Excise Officer" shall be substituted;

(g) in Section 74, for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise", wherever they occur, the words "Central Excise Officer" shall be substituted;

(h) in Section 78, in the first proviso, for the words "Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise", the words "Central Excise Officer" shall be substituted;

(i) in Section 83, for the figures and letter "15, 35-F," the figures and letters "15,33-A, 35-F" shall be substituted;

(j) after Section 83, the following section shall be inserted, namely:
"83-A. Power of adjudication. Where under this chapter or the rules made thereunder any person is liable to a penalty, such penalty may be adjudged by the Central Excise Officer conferred with such power as the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, by notification in the Official Gazette, specify.";

(k) in Section 84,

(a) in sub-section (1), for the words "which has been taken by the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "in which an adjudicating authority subordinate to him has passed any decision or order" shall be substituted;

(b) in sub-section (3), for the words "the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "such adjudicating authority" shall be substituted;

(l) in Section 85,

(a) for sub-section (1), the following sub-section shall be substituted, namely: . "(1) Any person aggrieved by any decision

or order passed by an adjudicating authority subordinate to the Commissioner of Central Excise may appeal to the Commissioner of Central Excise (Appeals).";

(b) in sub-section (3), for the words "the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "such adjudicating authority" shall be substituted;

(m) in Section 86,

(a) in sub-section (1), for the word and figures "Section 84", the words, figures and letter "Section 73 or Section 83-A or Section 84" shall be substituted;

(b) in sub-section (2), for the word and figures "Section 84", the words, figures and letter "Section 73 or Section 83-A or Section 84" shall be substituted;

(c) in sub-section (2-A), for the words "the Assistant Commissioner of Central Excise or, as the case may be. Deputy Commissioner of Central Excise to appeal", the words "any Central Excise Officer to appeal on his behalf shall be substituted;

(d) in sub-section (4), for the words "Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise", the words "any Central Excise Officer subordinate to him" shall be substituted;

(n) in Section 94, in sub-section (2),

(i) in clause (b), for the words and figures "under Section 69", the words, brackets and figures "under sub-sections (1) and (2) of Section 69" shall be substituted;

(ii) in clause (c), for the words and figures "under Section 70", the words, brackets and figures "under sub-sections (1) and (2) of Section 70" shall be substituted;

(o) in Section 96-A,- \

(i) for clause (b), the following clause shall substituted namely:- \ \ \ (b) applicant means,- \ \ \

(i)

(a) a non-resident setting up a venture in india in \ \ \ collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in india in collaboration \ with a non-resident; or

(c) a wholly owned subsidiary indian company, of which the holding company is a foreign company who or which as the case may be, proposes to undertake any business activity in india;

(ii) a joint venture in india or

(iii) a resident falling within any such or category of persons, as the Central Government may, by notification in the Official Gazette specify in this behalf and which or who as the case may be, makes application for advance ruling under sub-section (1) of Section 96-C

(ii) in clause (d) for the words Authority for Advance Rulings the words and brackets Authority for Authority for Advance Ruling (Central Excise Customs and service Tax) shall be substituted.

CHAPTER 6

CENTRAL SALES TAX

89. Amendment of Section 2 :-

In Section 2 of the Central Sales Tax Act, 1956 (74 of 1956) (hereinafter referred to as the Central Sales Tax Act),

(a) in clause (h), the following proviso shall be. inserted at the end; namely:- "Provided that in the case of a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, the sale price of such goods shall be determined in the prescribed manner by making such deduction from the total consideration for the works contract as may be prescribed and such price shall be deemed to be the sale price for the purposes of this clause.";

(b) for clause (i), the following clause shall be substituted, namely: '(i) "sales tax law" means any law for the time being in force in any State or part thereof which provides for the levy of taxes on the sale or purchase of goods generally or on any specified goods expressly mentioned in that behalf and includes value added tax law, and "general sales tax law" means any law for the time being in force in any State or part thereof which provides for the levy of tax on the sale or purchase of goods generally and includes value added tax law;';

(c) after clause (j), the following clause shall be inserted, namely:- '(ja) "works contract" means a contract for carrying out any work

which includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property;'

90. Amendment of Section 5 :-

In Section 5 of the Central Sales Tax Act, after subsection (3), the following sub-sections shall be inserted, namely:

(4) The provisions of sub-section (3) shall not apply to any sale or purchase of goods unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exported to whom the goods are sold in a prescribed form obtained from the prescribed authority.

(5) Notwithstanding anything contained in sub-section (1), if any designated Indian carrier purchases Aviation Turbine Fuel for the purposes of its international flight, such purchase shall be deemed to take place in the course of the export of goods out of the territory of India.

Explanation. For the purposes of this sub-section, "designated Indian carrier" means any carrier which the Central Government may, by notification in the Official Gazette, specify in this behalf.

91. Amendment of Section 6 :-

In Section 6 of the Central Sales Tax Act, for subsection (3), the following sub-sections shall be substituted, namely:

"(3) Notwithstanding anything contained in this Act, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce, to any official, personnel, consular or diplomatic agent of

(i) any foreign diplomatic mission or consulate in India; or

(ii) the United Nations or any other similar international body, entitled to privileges under any convention or agreement to which India is a party or under any law for the time being in force, if such official, personnel, consular or diplomatic agent, as the case may be, has purchased such goods for himself or for the purposes of such mission, consulate, United Nations or other body.

(4) The provisions of sub-section (3) shall not apply to the sale of goods made in the course of inter-State trade or commerce unless

the dealer selling such goods furnishes to the prescribed authority a Certificate' in the prescribed manner on the prescribed form duly filled and signed by the official, personnel, consular or-diplomatic agent, as the case may be."

92. Amendment of Section 13 :-

In Section 13 of the Central Sales Tax Act, in subsection (1), clause (aa) shall be relettered as clause (ab) thereof, and before clause (ab) as so re-lettered, the following clause shall be inserted, namely: "(aa) the manner of determination of the sale price and the deductions from the total consideration for a works contract under the proviso to clause (h) of Section 2;".

CHAPTER 7

BANKING CASH TRANSACTION TAX

93. Extent, commencement and application :-

(1) This chapter extends to the whole of India except the State of Jammu and Kashmir.

(2) It shall come into force on the 1st day of June, 2005.

(3) It shall apply to taxable banking transactions entered into on or after the commencement of this chapter.

94. Definitions :-

In this chapter, unless the context otherwise requires,

(1) "Appellate Tribunal" means the Appellate Tribunal constituted under Section 252 of the Income Tax Act, 1961 (43 of 1961);

(2) "Assessing Officer" means the Income Tax Officer or Assistant Commissioner of Income Tax or Deputy Commissioner of Income Tax or Joint Commissioner of Income Tax or Additional Commissioner of Income Tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this chapter;

(3) "banking cash transaction tax" means tax leviable on the taxable banking transactions under the provisions of this chapter,

¹(3A) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank referred to in section 51 of that Act;

(4) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

² '(4A) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);'.

(5) "person" shall have the same meaning as in clause (31) of Section 2 of the Income Tax Act, 1961 (43 of 1961) and includes an office or establishment of the Central Government or the Government of a State;

(6) "prescribed" means prescribed by rules made by the Board under this chapter;

(7) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980). or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(8) "taxable banking transaction" means

(a) a transaction, being withdrawal of cash (by whatever mode) on any single day from an account (other than a savings bank account) maintained with any scheduled bank, exceeding,

(i) twenty-five thousand rupees, in case such withdrawal is from the account maintained by any individual or Hindu undivided family;

(ii) one lakh rupees, in case such withdrawal is from the account maintained by a person other than any individual or Hindu undivided family; or

(b) a transaction; being receipt of cash from any scheduled bank on any single day on encashment of one or more term deposits, whether on maturity or otherwise, from that bank, exceeding,

(i) twenty-five thousand rupees, in case such term deposit or deposits are in the name of any individual or Hindu undivided family;

(ii) one lakh rupees, in case such term deposit or deposits are by any person other than any individual or Hindu undivided family;

(9) words and expressions used but not defined in this chapter and defined in the Negotiable Instruments Act, 1881 (26 of 1881), the Reserve Bank of India Act, 1934 (2 of 1934), the Banking Regulation Act, 1949 (10 of 1949), the Income Tax Act, 1961 (43 of-1961), or the rules or regulations made thereunder, shall apply, so far as may be, in relation to banking cash transaction tax.

In chapter VII of the Finance Act, 2005 (hereinafter in this chapter referred to as the Finance Act), in section 94, w.e.f. after clause (3), the following clause shall be inserted and shall be deemed to have been inserted, namely: (3 A) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank referred to in section 51 of that Act;';

In chapter VII of the Finance Act, 2005 (hereinafter in this chapter referred to as the Finance Act), in section 94, w.e.f. after clause (4), the following clause shall be inserted and shall be deemed to have been inserted, namely: '(4A) "co-operative bank" shall have the meaning assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);'.

95. Charge of banking cash transaction tax :-

(1) On and from the commencement of this chapter, there shall be charged a banking cash transaction tax, in respect of every taxable banking transaction entered into on or after the 1st day of June, 2005, at the rate of 0.1 per cent of the Value of every such taxable banking transaction.

(2) The banking cash transaction tax referred to in sub-section (1) shall be payable,

(i) in respect of taxable banking transaction referred to in sub-clause (a) of clause (8) of Section 94, by the individual or Hindu undivided family referred to in item (i) or a person referred to in item (ii) of said sub-clause (a), from whose account the cash is withdrawn from any scheduled bank;

(ii) in respect of taxable banking transaction referred to in sub-clause (b) of clause (8) of Section 94, by the person who receives the cash on encashment of term deposit or deposits :

Provided that no banking cash transaction tax shall be payable if the amount of the term deposit or deposits is credited to any account with the bank.

96. Value of taxable banking transaction :-

The value of taxable banking transaction shall be,

(i) in respect of taxable banking transaction referred to in sub-clause (a) of clause (8) of Section 94, the amount of cash withdrawn;

(ii) in respect of taxable banking transaction referred to in sub-clause (b) of clause (8) of Section 94, the amount of cash received on encashment of term deposit or deposits.

97. Collection and recovery of banking cash transaction tax
:-

(1) Every scheduled bank shall collect the banking cash transaction tax from every person, being a person referred to in clause (i) or clause (ii) of sub-section (2) of Section 95 who enters into a taxable banking transaction with that bank, at the rate specified in Section 95.

(2) The banking cash transaction tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every scheduled bank to the credit of the Central Government by the fifteenth day of the month immediately following the said calendar month.

(3) Any scheduled bank, who fails to collect the tax in accordance with the provisions of sub-section (1), shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

98. Scheduled bank to furnish prescribed return :-

(1) Every scheduled bank (hereafter in this chapter referred to as assessee) shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form and verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable banking transactions entered into during such financial year in the scheduled bank.

(2) Where any assessee fails to furnish the return under sub-section (1) within the prescribed time, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

(3) Any assessee who has not furnished the return within the time allowed under subsection (1) or sub-section (2), or having furnished a return under sub-section (1) or subsection (2), discovers any omission or wrong statement therein; may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

99. Assessment :-

(1) For the purposes of making an assessment under this chapter, the Assessing Officer may serve on any assessee, who has furnished a return under sub-section (1) or sub-section (3) of Section 98 or upon whom a notice has been served under sub-section (2) of Section 98 (whether a return has been furnished or not), a notice requiring him to produce or cause to be-produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (1) and after taking into account any other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable banking transactions during the relevant financial year and determine the amount of banking cash transaction tax payable or refundable on the basis of such assessment:

Provided that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(3) Every assessee, in case any amount is refunded to it on assessment under subsection (2), shall, within such time as may be prescribed, refund such amount to the concerned person from whom such amount was collected.

100. Rectification of mistake :-

(1) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this chapter within one year from the end of the financial year in which the order sought to be amended was

passed.

(2) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section (1), the Assessing Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Assessing Officer may (a) make an amendment under sub-section (1) of his own motion; or (B) make such amendment if any mistake is brought to his notice by the assessee.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writlag by the Assessing Officer.

(6) Subject to the other provisions of this chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund, which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this chapter shall apply accordingly.

101. Interest on delayed payment of banking cash transaction tax :-

Every assessee who fails to credit the banking cash transaction tax or any part thereof as required under Section 97, to the account of the Central Government within the period' specified in that section, shall pay simple interest at the rate of one per cent of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

102. Penalty for failure to collect or pay banking cash

transaction tax :-

Any assessee who

(a) fails to collect the whole or any part of the banking cash transaction tax as required under Section 97; or

(b) having collected the banking cash transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of subsection (2) of Section 97, shall be liable to pay,

(i) in the case referred to in clause (a), in addition to paying the tax in accordance with the provisions of sub-section (3) of Section 97, or interest, if any, in accordance with the provisions of Section 101, by way of penalty, a sum equal to the amount of banking cash transaction tax that it failed to collect; and

(ii) in the case referred to in clause (b), in addition to paying the tax in accordance with the provisions of sub-section (2) of Section 97 and interest in accordance with the provisions of Section 101, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of banking cash transaction tax that it failed to pay.

103. Penalty for failure to furnish prescribed return :-

If an assessee fails to furnish in due time the return which it is required to furnish under sub-section (1) of Section 98 or by notice given under sub-section (2) of that section, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

104. Penalty for failure to comply with notice :-

If the Assessing Officer in the course of any proceedings under this chapter is satisfied that any person has failed to comply with a notice under sub-section (1) of Section 99, he may direct that such person shall pay, by way of penalty, in addition to any banking cash transaction tax and interest, if any, payable by him, a sum often thousand rupees for each such failure.

105. Penalty not to be imposed in certain cases :-

Notwithstanding anything contained in the provisions of Section 102 or Section 103 or Section 104, no penalty shall be imposable for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure :

Provided that no order imposing a penalty under this chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

106. Application of certain provisions of Act 43 of 1961 :-

The provisions of the following sections of the Income Tax Act, 1961, as in force from time to time, shall apply, so far as may be, in relation to banking cash transaction tax as they apply in relation to income tax: 120, 131, 133-A, 156, 178, 220 to 227, 229, 232, 260-A, 261, 262, 265 to 269, 278-B, 282 and 288 to 293.

107. Appeals to Commissioner of Income -Tax :-

(1) Any -assessee aggrieved by any assessment order passed by, the Assessing Officer under Section 99 or any order under Section 100, or denying his liability to be assessed under this chapter, or by an order levying penalty under this chapter, may appeal to the Commissioner of Income Tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

(2) Every appeal under sub-section (1) shall be in die prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under the provisions of sub-section (1), the provisions of Sections 249 to 251 of the Income Tax Act, 1961 (43 of 1961), shall, as far as may be, apply.

108. Appeals to Appellate Tribunal :-

(1) Any assessee aggrieved by an order passed by a Commissioner of Income Tax (Appeals) under Section 107 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income Tax may, if he objects to any order passed by the Commissioner of Income Tax (Appeals) under Section 107, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is received by the assessee, or by the Commissioner of Income Tax, as the case may be.

(4) Every appeal under sub-section (1) or sub-section (2) shall be in the prescribed form and shall be verified in the prescribed

manner and in the case of an appeal filed under subsection (1) shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or sub-section (2), the provisions of Sections 252 to 255 of the Income Tax Act, 1961 (43 of 1961), shall, as far as may be, apply.

109. False statement in verification etc :-

(1) If a person makes a statement in any verification under this chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under sub-section (1) shall be deemed to be non-cognizable within the meaning of that Code.

110. Institution of proceedings :-

A person shall not be proceeded against for any offence under Section 109 except with the previous sanction of the Chief Commissioner of Income Tax.

111. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the time within which the return shall be delivered or caused to be delivered to the Assessing Officer or to any other agency and the form and the manner in which such return shall be furnished under sub-section (1) or sub-section (2) of Section 98;

(b) the time within which the return shall be furnished on receipt of notice under sub-section (2) of Section 98;

(c) the time within which refund shall be made under sub-section (3) of Section 99;

(d) the form in which an appeal under Section 107 or Section 108 may be filed and the manner in which they may be verified;

(e) any other matter which by this chapter is to be, or may be, prescribed.

(3) Every rule made under this chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

112. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this chapter, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this chapter come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

CHAPTER 8

MISCELLANEOUS

113. Amendment of Act 5 of 1873 :-

In Section 3 of the Government Savings Banks Act, 1873, in the definition of "depositor", the following proviso shall be inserted, namely:

Provided that on and after the date on which the Finance Bill, 2005 receives the assent of the President, the provisions of this clause shall have effect as if for the words "a person", the words "an individual" had been substituted.

114. Insertion of new Section 8-B in Act 2 of 1899 :-

After Section 8-A of the Indian Stamp Act, 1899, the following

section shall be inserted, namely: '8-B. Corporatisation and demutualisation schemes and related instruments not liable to duty. Notwithstanding anything contained in this Act or any other law for the time being in force,

(a) a scheme for corporatisation or demutualisation, or both of a recognised stock exchange; or

(b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised stock exchange pursuant to a scheme, as approved by the Securities and Exchange Board of India under sub-section (2) of Section 4-B of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), shall not be liable to duty under this Act or any other law for the time being in force. Explanation. For the purposes of this section,

(a) the expressions "corporatisation", "demutualisation" and "scheme" shall have the meanings respectively assigned to them in clauses (aa), (ab) and (ga) of Section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(b) "Securities and Exchange Board of India" means the Securities and Exchange Board of India established under Section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).

115. Amendment of Section 2 of Act 49 of 1950 :-

Section 2 of the Contingency Fund of India Act, 1950 shall be numbered as sub-section

(1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:

"(2) On and from the date on which the Finance Bill, 2005 receives the assent of the President, the sum which shall be paid from and out of the Consolidated Fund of India into the Contingency Fund of India under sub-section (1) shall stand enhanced to five hundred crores of rupees."

116. Substitution of new Schedule for First Schedule to Act 58 of 1957 :-

For the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Schedule specified "in the

Tenth Schedule shall be substituted.

117. Amendment of Section 2 of Act 46 of 1959 :-

In Section 2 of the Government Savings Certificates Act, 1959, for clause (a), the following clauses shall be substituted, namely:

(a) "holder", in relation to a savings certificate, means -

(i) a person who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time before the date on which the Finance Bill, 2005 receives the assent of the President; and

(ii) an individual who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time on or after the date on which the Finance Bill, 2005 receives the assent of the President;

(aa) "minor" means a person who is not deemed to have attained his majority under the Majority Act, 1875 (9 of 1875);

118. Substitution of new Schedule for Schedule to Act 40 of 1978 :-

For the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, the Schedule specified in the Eleventh Schedule shall be substituted.

119. Amendment of Second Schedule to Act 21 of 1998 :-

In the Finance (No. 2) Act, 1998, in the Second Schedule, for the entry in column (3), the entry "Rupee two per litire" shall be substituted.

120. Amendment of Second Schedule to Act 27 of 1999 :-

In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry "Rupee two per litre" shall be substituted.

121. Amendment of Section 10 of Act 54 of 2000 :-

Section 10 of the Central Road Fund Act, 2000 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely: "(2) Notwithstanding anything contained in clause (viii) of sub-section (1), the Central Government shall, with effect from the 1st day of March, 2005, allocate fifty paise from the amount of rupee two as amended by Sections 119 and 120 of the Finance Act, 2005 as the additional duty of customs and the additional duty of excise, on petrol, levied under subsection (1) of Section 103 and sub-section

(1) of Section 111, as the case may be, of the Finance (No. 2) Act, 1998 (21 of 1998) and the additional duty of customs and the additional duty of excise on high speed diesel oil levied under sub-section (1) of Section 116 and subsection (1) of Section 133. as the case may be, of the Finance Act, 1999 (27 of 1999). exclusively for the development and maintenance of national highways."

122. Substitution of new Schedule for Seventh Schedule to Act 14 of 2001 :-

For the Seventh Schedule to the Finance Act, 2001, the Schedule specified in the Twelfth Schedule shall be substituted.

123. Amendment of Act 32 of 2003 :-

In the Finance Act, 2003,

(a) Section 128 shall be omitted;

(b) in Section 134, the Explanation shall be omitted;

(c) Section 157 shall be omitted;

(d) in Section 169, the portion beginning with the words "and the amendment so made" and ending with the words "repealed by a Central Act" shall be omitted with effect from the 31 st day of March, 2005;

(e) the Fourth Schedule shall be omitted.

124. Ammemdment of Act 23 of 2004 :-

In the Finance (No. 2) Act, 2004,

(a) in Section 88, after sub-section (4), the following sub-sections shall be inserted, namely: "(5) Notwithstanding anything contained in sub-section (4), the following procedure shall be followed for the recovery of the CENVAT credit of additional duty leviable under Section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) which has been availed but which would not have been availed if the amendment made by sub-section (1) was in force at all material times (hereinafter referred to in this section as the amount of credit), namely:

(i) the Central Excise Officer shall, on or before the 25th day of May, 2005, serve notice on the person from whom the recovery is to be made (hereinafter referred to as the assessee), requiring the assessee to declare the amount of credit utilised by him on different dates for payment of duty of excise (hereinafter referred

to as the CENVAT duty) leviable under the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);

(ii) the assessee shall furnish the declaration as required under clause (i) on or before the 31st day of May, 2005;

(iii) the Central Excise Officer shall, after considering the declaration made by the assessee under clause (ii), determine the amount of credit utilised on different dates for payment of CENVAT duty;

(iv) the Central Excise Officer shall separately determine the amount of interest on the amount of credit (hereinafter referred to as the amount of interest) utilised for paying the CENVAT duty, in accordance with the provisions of clause (v);

(v) the amount of interest on amount of credit utilised for paying the CENVAT duty shall be at a rate of thirteen per cent per annum for the period beginning on and from the day when each time the amount of credit was so utilised and ending on the 10th day of September, 2004;

(vi) the Central Excise Officer shall, on or before the 15th day of June, 2005, inform the assessee, in writing, the amount of credit and the amount of interest so determined under clauses (iii) and (iv);

(vii) the assessee shall pay an amount equal to one-thirty sixth part of each of the amount determined under clauses (iii) and (iv) by the fifth day of every month, commencing from the month, following the month of receipt of information of the amount determined by the Central Excise Officer,

(viii) the assessee may make payment on his own towards the amount of credit or, as the case may be, the amount of interest, excess of the amount required to be paid up to a particular month;

(ix) where the assessee pays the total amount of credit and the amount of interest so determined under clauses (iii) and (iv), respectively, the Central Excise Officer shall issue an order conforming the payment of credit and the amount of interest and discharging the assessee from any recovery of the amount of credit;

(x) for the purposes of this sub-section, it is hereby clarified that the amount of credit has been fully utilised first towards payment

of the CENVAT duty before utilising the CENVAT credit of additional duty leviable under Section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) paid on or after the 1st day of April, 2000 for payment of the CENVAT duty.

(b) in Section 94, in sub-section (1), clause (a) shall be re-lettered as clause (aa) thereof, and before clause (aa) as so re-lettered, the following clause shall be inserted, namely: "(a) the additional duty referred to in sub-section (5) of Section 3 of the Customs Tariff Act, 1975 (51 of 1975);".

(c) In Section 98, in the Table, with effect from the 1st day of June, 2005,

(i) against SI. No. 1, under column (3) relating to rate, for the figures and words "0.075 per cent", the figures and words "0.1 per cent" shall be substituted;

(ii) against SI. No. 2, under column (3) relating to rate, for the figures and words "0.075 per cent", the figures and words "0.1 per cent" shall be substituted;

(iii) against SI. No. 3, under column (3) relating to rate, for the figures and words "0.015 per cent", the figures and words "0.02 per cent" shall be substituted;

(iv) against SI. No. 4, under column (3) relating to rate, for the figures and words "0.01 per cent", the figures and words "0.0133 per cent" shall be substituted;

(v) against SI. No. 5, under column (3) relating to rate, for the figures and words "0.15 per cent", the figures and words "0.2 per cent" shall be substituted.