Highlights of Finance (No.2) Bill,2009

- No changes made in the Corporate Tax Rates

- Lowering the burden on the individual taxpayers by increasing the basic exemption limit available to the tax payers:

    - Senior Citizens - Present Limit – Rs.2.25 lakhs – Proposed Limit – Rs.2.40 lakhs
    - Women - Present Limit – Rs.1.80 lakhs – Proposed Limit – Rs.1.90 lakhs
    - Others - Present Limit – Rs.1.50 lakhs – Proposed Limit – Rs.1.60 lakhs

- Deduction under section 80 DD in respect of maintenance, including medical treatment, of a dependent who is a person with severe disability being raised from the present limit of Rs.75,000/- to Rs.1,00,000/- However, the limit for ordinary disability is proposed to be retained at the existing level of Rs.50,000/-.

- No surcharge on Individuals, Co-operative Societies, Firms, Local Authorities

- It is proposed to amend the provisions of section 80E of the Income-tax Act so as to extend its scope to cover all fields of studies (including vocational studies) pursued after passing the SSC or its equivalent from any school, board or university recognized by the Central Government or State Government or local authority or by any other authorized by the Central Government or State Government or local authority to do so.

- **Advance Tax**

    - It is proposed to raise the threshold limit for payment of Advance Tax from Rs.5,000/- to Rs.10,000/-.

    - It is proposed to raise the threshold limit for payment of Wealth Tax from Rs.15 lakhs to Rs.30 lakhs.

- **Amendment to Section 40 A(3)**

    - It is proposed the limit for disallowance of expenditure made in the case of transporters otherwise than by an account payee cheque or account payee bank draft from RS.20,000/- to Rs.35,000/-

    - The proposed amendment will apply to transactions effected on or after the 1st October,2009.

- It is proposed that any institution (having receipts of more than rupees one crore) has to make an application for seeking exemption by filing application or on before 30th September of the succeeding financial year.

- An amendment is made to include certain activities within the ambit of provisions relating to "charitable purpose" in the Income-tax Act.

- **<u>Annonymous Donations</u>**

  - To mitigate the practical difficulties faced by charitable organizations, anonymous donations received by charitable organizations to the extent of 5% of their total income or a sum of Rs. 1 lakh, whichever is higher, not to be taxed.

- **<u>Remuneration to Partners in a Firm</u>**

  - It is proposed to make upward revision of the existing limits of the remuneration. It is also proposed to prescribed uniform limit for both professional and non-professional firms to simplicity and administrative ease.

▪ (a) on the first Rs.3 lakhs of the book profit Or in case of loss	Rs.1.50 lakhs or at the rate of 90% of the book Profit, whichever is more;
• (b) on the balance of the book profit	at the rate of 60%

- It is proposed to extend the benefit of weighted deduction to companies engaged in the business of manufacture or production of an article or thing except those specified in the Eleventh Schedule of the Income-tax Act.

- It is proposed to insert a new section 293C to provide that an approval granting authority shall also have the power to withdraw the approval at any time.

- Now schedule banks empower to issue Zero Coupon Bonds

- Donations to electoral trusts to be allowed as 100% deduction in the computation of the income of the donor.

- The benefit of tax holiday under Section 80-IA

  - Terminal date for commencing the activity of generation, transmission or distribution of power in case of such under taking from 21st March,2008 to 31st March,2011.
  - Sun-set clauses for deduction in respect of export profits under sections 10A and 10B of the income tax act being extended by one more year i.e. for the financial year 2010-11

- It is proposed to include “other public sector banks” apart from public sector banks.

- Now Income-tax Act has come out with a definition from “Manufacture”.

- **<u>Amendment to Section 147</u>**

  - It is proposed to insert an explanation in Section 147 to provide that the assessing officer may asses or assess income in respect of any such issue which come to his notice subsequently in the course of proceedings under this section, notwithstanding that the reason for such issue has not been included in the reasons recorded under sub-section (2) of Section 148.

  - This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to assessment year 1989-1990 and subsequent years.
- Fringe Benefit Tax on the value of certain fringe benefits provided by employers to their employees to be abolished.

- Certain tax benefits extended to New Pension Scheme,2004

- **Income from other sources – Section 56**

  - It is proposed to amend section 56 of the Income-tax Act to provide that the value of any property received without consideration or for inadequate consideration will also be included in the computation of total income of the recipient.
  - Properties include immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art.

- **Minimum Alternate Tax**

  - Minimum Alternate Tax (MAT) to be increased from 10% to 15% of book profits .
  - The period allowed to carry forward the tax credit under MAT to be extended from 7 years to 10 years.
  - For the purpose of calculating books profits, "provision for diminution in the value of any asset has been debited to P & L shall be added to the net profit.

- **Document Identification Number**

  - Now every income-tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence sent or received by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.
  - This amendment will take effect from 1st October,2010.

- Scope of provisions relating to weighted deduction of 150% on expenditure incurred on in-house R & D to all manufacturing businesses being extended except for a small negative list.

- Commodity Transaction Tax (CTT) to be abolished.

- Alternative Dispute Resolution mechanism to be created within the Income-tax Department for the resolution of transfer pricing disputes.

- Time extended for obtaining exemption from EPFO from the 31st March,2009 to 31st December,2010.

- **<u>Special Provision for Computing Profits and Gains on business on presumption basis:</u>**
    - The existing provisions of the Income-tax Act, provide for taxation of income on presumptive basis in the case of construction business, income from goods carriages and business of retail trade.
    - Section 44D prescribes a method of presumptive taxation for assesses engaged in the business of civil construction or supply of labour for civil construction in which a sum equal to eight percent of the gross receipts is deemed to the profits and gains from business. Section 44AE provides presumptive provisions for the assesses engaged in the business of plying, hiring or leasing upto ten goods carriages in which a prescribed sum per vehicle is deemed to be the presumptive income of the assessee. Section 44AE prescribes a method of presumptive taxation for retail trade, under which the presumptive income is computed at the rate of a sum equal to five percent of the total turnover.
    - There has been substantial increase in small business with the growth of transport and communication and general growth of the economy. A large number of businesses and service providers in rural and urban areas who earn substantial income are outside the tax-net. Introduction of presumptive tax provisions in respect of small businesses would help a number of small businesses to comply with the taxation provisions without consumption their time and resources. A presumptive income scheme for small taxpayers lowers the compliance cost for such taxpayers and also reduces the administrative burden on the tax machinery.
    - In view of the above, it is proposed to expand the scope of presumptive taxation to all businesses by substituting a new section 44AD. The salient features of the proposed presumptive taxation scheme are as under:
        - The scheme shall be applicable to individuals, HUFs and partnership firms excluding Limited liability partnership firms. It shall also not be applicable to an assessee who is availing deduction under sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading “C.-Deductions in respect of certain incomes” in the relevant assessment year.
        - The scheme is applicable for any business (excluding a business already covered under Sec 44AE) which has a maximum gross turnover / gross receipts of 40 lakhs.
        - The presumptive rate of income is prescribed at 8% of gross turnover / gross receipts.
        - An assessee opting for the above scheme shall be exempted from payment of advance tax related to such business under the current provisions of the Income-tax Act.
        - An asseessee opting for the above scheme shall be exempted from maintains of books of accounts related to such business as required under section 44AA of the Income-tax Act.
        - An assessee with turnover below Rs 40 lakhs, who shows an income below the presumptive rate prescribed under these provisions, will, in case his total income exceeds the taxable limit, be required to maintain books of accounts and also get them audited.
        - The existing section 44AF is proposed to be made inoperative for the assessment year beginning on or after 1st day of April, 2011.

The proposed amendment will take effect from 1st April, 2011 and will, apply in relation to the assessment year 2011-12 and subsequent years.

- **Presumptive income for truck owners under section 44E**
- Under the existing provisions of section 44AE, a presumptive scheme is available to assesses engaged in business of plying, hiring or leasing goods carriages. The scheme applies to an assessee, who owns not more than 10 goods carriages at any time during the previous year.
- Under this scheme, which is optional to the assessee, a fixed amount of income per vehicle is taken at the rate of Rs. 3,500/-per month per vehicle for owners of heavy goods vehicle, and Rs.3,150/- per month per vehicle for the owners of light goods vehicles. An assessee opting for this scheme is exempted from maintaining books of accounts to substantive the income.
- It is proposed to enhance the presumed income per vehicle for the owners of-
    - Heavy goods vehicle to Rs.5000/- per month; and
    - Other than heavy goods vehicle to Rs.4,500/-per month.
    - It is further proposed to provide an anti-avoidance clause stating that a prescribed fixed sum or a sum higher than the aforesaid sum claimed to have been earned by the assessee shall be deemded to be profits and gains of such business.

  The proposed amendment will take effect from the 1st April, 2011 and will, accordingly apply in relation to assessment year 2011-12 and subsequent year

- LLP taxation is similar to taxation provisions relating to partnership firm.

- **TDS -Section 194 I**

	Exiting Rate	**Proposed Rate (01-10-2009)**
Rent of Plant, Machinery & Equipment	10%	2%
Rent of land, building or furniture to an individual and HUF	15%	10%
rent of land, building or furniture to a person other than individual or HUF	20%	10%

Note: The rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee wef 01/04/2010

- **TDS-Section 194C**

As Per Finance Bill, 2009, these rates are effective Oct-12009

Clause	Description	Prior to Finance Bill2009	Mentioned in Finance Bill2009
Clause 60	194C of the Income-tax Act relating to deduction of tax at source on payment to contractors and sub-contractors	If certain persons make payment for carrying out any work to a contractor then tax is deductible at source at the rate of one per cent,in the case of payment for advertising contract and two per cent, in the case of any other contract. Further, tax is deductible at source at the rate of one per cent. When a contractor makes a payment to a sub-contractor. The section further provided that no tax shall be deductible at source on payment or credit up to twenty thousand rupees. However, if the aggregate payment or credit exceeds fifty thousand rupees in a year then tax is deductible at source. The provisions give exemption from tax deduction at source on payment made to a sub-contractor during the course of business of plying, hiring or leasing goods carriages on fulfillment of certain conditions	Sub-section (1) of the proposed amendment provides that any person shall deduct tax at source at the rate of ***one per cent,if the payee is an individual or a Hindu undivided family or at the rate of two per cent.*** in the case of any other person, on payment to a resident contractor for carrying out any work.
Clause 61	194-I of the Incometax Act, which relates to deduction of tax at source on any income payable by way of rent	Clauses (a), (b) and (c) of the said section provide for deduction of tax at source on income by way of rent. It, *inter alia* provides such deduction at the rate of ten per cent for the use of any machinery or plant or equipment. It further provides that such deduction at the rate of fifteen per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is an individual or a Hindu undivided family and twenty per cent. where such payee is a person other than an individual or a Hindu undivided family	It is proposed to substitute the said clauses (a), (b) and (c) by new clauses (a) and (b) so as to provide that deduction of tax at source on an income by way of rent shall be at the rate of **(a) two per cent. for the use of any machinery or plant or equipment; and (b) ten per cent. for the use of any land or building** (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings