Taxation Laws (Amendment) Act, 2006†*

[29 OF 2006]

An Act further to amend the Income-tax Act, 1961, the Customs Act, 1962, the Customs Tariff Act, 1975 and the Central Excise Act, 1944.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title.

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 2006.

CHAPTER II

DIRECT TAXES

Income-tax

Amendment of section 2.

2. In section 2 of the Income-tax Act, 1961 (43 of 1961) (hereafter in this Chapter referred to as the Income-tax Act), in clause (*44*), after the words "powers of a Tax Recovery Officer", the following shall be inserted, namely:—

"and also to exercise or perform such powers and functions which are conferred on, or assigned to, an Assessing Officer under this Act and which may be prescribed".

Amendment of section 10.

3. In section 10 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(*a*) after clause (*23BBE*), the following clause shall be inserted, namely:—

"(*23BBF*) any income of the North-Eastern Development Finance Corporation Limited, being a company formed and registered under the Companies Act, 1956 (1 of 1956):

Provided that in computing the total income of the North-Eastern Development Finance Corporation Limited, the amount to the extent of—

(*i*) twenty per cent of the total income for assessment year beginning on the 1st day of April, 2006;

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*Relevant Extracts.

†Dated 13-7-2006.

(*ii*) forty per cent of the total income for assessment year beginning on the 1st day of April, 2007;

(*iii*) sixty per cent of the total income for assessment year beginning on the 1st day of April, 2008;

(*iv*) eighty per cent of the total income for assessment year beginning on the 1st day of April, 2009;

(*v*) one hundred per cent of the total income for assessment year beginning on the 1st day of April, 2010 and any subsequent assessment year or years,

shall be included in such total income;";

(*b*) in clause (*23C*),—

(*i*) in the eighth proviso, for the words, brackets and letters "notification issued by the Central Government under sub-clause (*iv*) or sub-clause (*v*) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years", the words, brackets, figures and letters "notification issued by the Central Government under sub-clause (*iv*) or sub-clause (*v*), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years" shall be substituted;

(*ii*) after the eighth proviso, the following provisos shall be inserted, namely:—

"**Provided also** that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under sub-clause (*iv*) or sub-clause (*v*) shall be issued or approval under sub-clause (*vi*) or sub-clause (*via*) shall be granted or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received:

Provided also that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:".

Amendment of section 12A.

4. In section 12A of the Income-tax Act, in clause (*b*), for the words and figures "the provisions of section 11 and section 12 exceeds fifty-thousand rupees in any previous year", the words and figures "the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year" shall be substituted with effect from the 1st day of April, 2006.

Amendment of section 35.

5. In the Income-tax Act, in section 35, with effect from the 1 day of April, 2006,—

(*i*) in sub-section (*l*),—

(*a*) in clause (*ii*), for the proviso, the following proviso shall be substituted, namely:—

"**Provided** that such association, university, college or other institution for the purposes of this clause—

(*A*) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(*B*) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government,";

(*b*) in clause (*iii*), for the proviso, the following proviso shall be substituted, namely:—

"**Provided** that such university, college or other institution for the purposes of this clause—

(*A*) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(*B*) such university, college or other institution is specified as such by notification in the Official Gazette, by the Central Government,";

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

"*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to a scientific research association, university, college or other institution to which clause (*ii*) or clause (*iii*) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in clause (*ii*) or clause (*iii*) has been withdrawn;";

(*d*) in the second proviso, for the word "authority", the word "Government" shall be substituted;

(*e*) in the third proviso, for the words, brackets and letters "notification issued by the Central Government under clause (*ii*) or clause (*iii*) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years", the words, brackets, figures and letters "notification issued, by the Central Government under clause (*ii*) or clause (*iii*), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any time, have effect for such assessment year or years, not exceeding three assessment years" shall be substituted;

(*f*) after the third proviso, the following proviso shall be inserted at the end, namely:—

"**Provided** also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under clause (*ii*) or clause (*iii*) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government.".

(*ii*) in sub-section (*2AA*), the *Explanation* shall be numbered as *Explanation 2* thereof and before the *Explanation 2* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 1*.—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

(*a*) such Laboratory, or specified person shall been withdrawn; or

(*b*) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn."

Amendment of section 35AC.

6. In section 35AC of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted with effect from the 1st day of April, 2006, namely:—

"*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company or a local authority or to an association or institution for carrying out the eligible project or scheme referred to in this section applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(*a*) the approval granted to such association or institution has been withdrawn; or (*b*) the notification notifying eligible project or scheme carried out by the public sector company or local authority or association or institution has been withdrawn.

Amendment of section 35CCA.

7. In section 35CCA of the Income-tax Act, after sub-section (2A), the following:—

Explanation shall be inserted with effect from the 1st day of April, 2006, namely*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development referred to in sub-section (*l*), shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme of rural development, or as the case may be, to the association or institution has been withdrawn.".

Amendment of section 40.

8. In section 40 of the Income-tax Act, in clause (*a*), in sub-clause (*ia*), with effect from the 1st day of April, 2006,—

(*a*) after the words "commission or brokerage,", the words "rent, royalty," shall be inserted;

(*b*) in the *Explanation*, after clause (*iv*), the following clauses shall be inserted at the end, namely:—

'(*v*) "rent" shall have the same meaning as in clause (*i*) to the *Explanation* to section 194-I;

(*vi*) "royalty" shall have the same meaning as in *Explanation 2* to clause (*vi*) of sub-section (*1*) of section 9;'.

Amendment of section 40A.

9. In section 40A of the Income-tax Act in sub-sections (3) and (4), for the words "a crossed cheque drawn on a bank or by a crossed bank draft", wherever they occur, the words "an account payee cheque drawn on a bank or account payee bank draft" shall be substituted.

Amendment of section 56.

10. In section 56 of the Income-tax Act, in sub-section (2),—

(*a*) in clause (*v*),—

(*i*) after the words, letters and figures "after the 1st day of September, 2004", the words, letters and figures "but before the 1st day of April, 2006" shall be inserted with effect from the 1st day of April, 2006;

(*ii*) in the proviso, after clause (*d*), the following clauses shall be inserted, namely:—

"(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA.";

(*b*) after clause (*v*) and the *Explanation*, the following clause shall be inserted with effect from the 1st day of April, 2007, namely:—

"(*vi*) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006, the whole of the aggregate value of such sum:

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer; or

(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (2*3C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) brother or sister of either of the parents of the individual;

(*v*) any lineal ascendant or descendant of the individual;

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*).".

Amendment of section 80GGA.

11. In section 80GGA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2006,—

(*a*) after clause (*aa*), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to a scientific research association, University, college or other institution to which clause (*a*) or clasue (*aa*) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval to such association, University, college or other institution referred to in clause (*a*) or clause (*aa*), as the case may be, has been withdrawn;";

(*b*) after clause (*b*), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development to which this clause applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme, or as the case may be, to the association or institution has been withdrawn.";

(*c*) in clause (*bb*), the *Explanation* shall be numbered as *Explanation 2* thereof and before the *Explanation 2* as so numbered, the following *Explanation* shall be inserted, namely :—

"*Explanation 1.*— The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company, or to a local authority or to an association or institution for carrying out eligible project or scheme referred to in section 35AC, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(*a*) the approval granted to such association or institution has been withdrawn;

(*b*) the notification notifying eligible project or scheme referred to in section 35AC carried out by the public sector company, or local authoirty or association or institution has been withdrawn;'

Amendment of section 139.

12. In section 139 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(*a*) in sub-section (4C), in clause (*e*),—

(*i*) for the word, brackets and figures "sub-clause (*vi*)", the words, brackets and figures, "sub-clause (*iiiad*) or sub-clause (*vi*)" shall be substituted;

(*ii*) for the word, brackets and figures "sub-clause (*via*)", the words, brackets and figures, "sub-clause (*iiiae*) or sub-clause (*via*)" shall be substituted;

(*b*) after sub-section (4C), the following sub-section shall be inserted, namely:—

"(4D) Every university, college or other institution referred to in clause (*ii*) and clause (*iii*) of sub-section (1) of section 35, which is not required to furnish return of income or loss under any other provision of this section, shall furnish the return in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).".

Amendment of section 143.

13. In section 143 of the Income-tax Act, in sub-section (3), after the proviso, the following proviso shall be inserted, with effect from the 1st day of April, 2006, namely:—

"**Provided further** that where the Assessing Officer is satisfied that the activities of the university, college or other institution referred to in clause (*ii*) and clause (*iii*) of sub-section (1) of section 35 are not being carried out in accordance with all or any of the conditions subject to which such university, college or other institution was approved, he may, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned university, college or other institution, recommend to the Central Government to withdraw the approval and that Government may by order, withdraw the approval and forward a copy of the order to the concerned university, college or other institution and the Assessing Officer.".

Amendment of section 155.

14. In section 155 of the Income-tax Act, after sub-section (11), the following sub-section shall be inserted, namely:—

"(11A) Where in the assessment for any year, the deduction under section 10A or section 10B or section 10BA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 10A or section 10B or section 10BA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India, and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.".

Amendment of section 194-I.

15. In section 194-I of the Income-tax Act, in the *Explanation*, for clause (*i*), the following clause shall be substituted, namely:—

'(*i*) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,—

(*a*) land; or

(*b*) building (including factory building); or

(*c*) land appurtenant to a building (including factory building); or

(*d*) machinery; or

(*e*) plant; or

(*f*) equipment; or

(*g*) furniture; or

(*h*) fittings,

whether or not any or all of the above are owned by the payee;'.

Amendment of section 194J.

16. In section 194J of the Income-tax Act, in sub-section (1),—

(*i*) in clause (*b*), the word "or" shall be inserted at the end;

(*ii*) after clause (*b*), the following clauses shall be inserted, namely:—

"(*c*) royalty, or

(*d*) any sum referred to in clause (*va*) of section 28,";

(*iii*) in the first proviso, in clause (*B*),—

(*a*) in sub-clause (*ii*), for the words and brackets "clause (*b*) :", the words and brackets "clause (*b*), or" shall be substituted;

(*b*) after sub-clause (*ii*), the following clauses shall be inserted, namely:—

"(*iii*) twenty thousand rupees, in the case of royalty referred to in clause (*c*), or

(*iv*) twenty thousand rupees, in the case of sum referred to in clause (*d*):";

(*v*) in the *Explanation*, after clause (*b*), the following clause shall be inserted, namely:—

'(*ba*) "royalty" shall have the same meaning as in *Explanation 2* to clause (*vi*) of sub-section (1) of section 9;'.

Amendment of section 246A.

17. In section 246A of the Income-tax Act, in sub-section (1), after clause (*j*), the following clause shall be inserted, namely:—

"(*ja*) an order of imposing or enhancing penalty under sub-section (1A) of section 275;".

Amendment of section 275.

18. In section 275 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) In a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A or an appeal to the Appellate Tribunal under section 253 or an appeal to the High Court under section 260A or an appeal to the Supreme Court under section 261 or revision under section 263 or section 264 and an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty is passed before the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the Chief Commissioner or the Commissioner or the order of revision under section 263 or section 264 is passed, an order imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty may be passed on the basis of assessment as revised by giving effect to such order of the Commissioner (Appeals) or, the Appellate Tribunal or the High Court, or the Supreme Court or order of revision under section 263 or section 264:

Provided that no order of imposing or enhancing or reducing or cancelling penalty or dropping the proceedings for the imposition of penalty shall be passed—

(*a*) unless the assessee has been heard, or has been given a reasonable opportunity of being heard;

(*b*) after the expiry of six months from the end of the month in which the order of the Commissioner (Appeals) or the Appellate Tribunal or the High Court or the Supreme Court is received by the Chief Commissioner or the Commissioner or the order of revision under section 263 or section 264 is passed:

Provided further that the provisions of sub-section (2) of section 274 shall apply in respect of the order imposing or enhancing or reducing penalty under this sub-section.".

Substitution of new section for section 288B.

19. In Income-tax Act, for section 288B, the following section shall be substituted, namely:—

"288B. *Rounding off amount payable and refund due.*—Any amount payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five the amount shall be reduced to the next lower amount which is a multiple of ten.".

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