Income-tax Act, 1961

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

Incomes not included in total income Section -10 [Clause (1) to (10D)]

10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

(*1*) agricultural income ;

(*2*) [1]**[**subject to the provisions of sub-section (2) of section 64,**]** any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family ;

[2]**[**(*2A*) in the case of a person being a partner of a firm which is separately assessed as such, his share in the total income of the firm.

Explanation.—For the purposes of this clause, the share of a partner in the total income of a firm separately assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits ;**]**

(*3*) [3]**[*******]**

[4]**[**(*4*) (*i*) in the case of a non-resident, any income by way of interest on such securities or bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf, including income by way of premium on the redemption of such bonds :

[5]**[Provided** that the Central Government shall not specify, for the purposes of this sub-clause, such securities or bonds on or after the 1st day of June, 2002;**]**

[6]**[** (*ii*) in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any

bank in India in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and the rules made thereunder :

Provided that such individual is a person resident outside India as defined in clause (*q*) of section 2 of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account **;]]**

[7]**[*******]**

[8]**[**(*4B*) in the case of an individual, being a citizen of India or a person of Indian origin, who is a non-resident, any income from interest on such savings certificates issued [9]**[**before the 1st day of June, 2002**]** by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf :

Provided that the individual has subscribed to such certificates in convertible foreign exchange remitted from a country outside India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder.

Explanation.—For the purposes of this clause,—

(*a*) a person shall be deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in undivided India ;

(*b*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder **;]**

[10]**[**(*5*) in the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

(*a*) from his employer for himself and his family, in connection with his proceeding on leave to any place in India ;

(*b*) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service, subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government :

Provided that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

Explanation.—For the purposes of this clause, "family", in relation to an individual, means—

(*i*) the spouse and children of the individual ; and

(*ii*) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual; **]**

(*5A*) [11]**[*****]**

(*5B*) [12]**[*****]**

(*6*) in the case of an individual who is not a citizen of India,—

(*i*) [13]**[*****]**

[14]**[**(*ii*) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials, for service in such capacity :

Provided that the remuneration received by him as trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), or as a member of the staff of any of those officials, shall be exempt only if the remuneration of the corresponding officials or, as the case may be, members of the staff, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country :

Provided further that such members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff ;**]**

(*vi*) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled—

(*a*) the foreign enterprise is not engaged in any trade or business in India ;

(*b*) his stay in India does not exceed in the aggregate a period of ninety days in such previous year ; and (*c*) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act ;

(*via*) [15]**[***]**

(*vii*) [16]**[***]**

(*viia*) [17]**[***]**

(*viii*) any income chargeable under the head "Salaries" received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year ;

(*ix*) [18]**[***]**

(*x*) [19]**[***]**

[20]**[**(*xi*) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—

(*i*) the Government ; or

(*ii*) any company in which the entire paid-up share capital is held by the Central Government, or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments ; or

(*iii*) any company which is a subsidiary of a company referred to in item (*ii*) ; or

(*iv*) any corporation established by or under a Central, State or Provincial Act ; or

(*v*) any society registered under the Societies Registration Act, 1860 (14 of 1860), or under any other corresponding law for the time being in force and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments ;**]**

[21]**[**(*6A*) where in the case of a foreign company deriving income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976 [22]**[**but

before the 1st day of June, 2002**]** [23]**[**and,—

(*a*) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy ; and

(*b*) in any other case, the agreement is approved by the Central Government,

the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid**].**

Explanation.—For the purposes of this clause [24]**[**and clause (*6B*)**]**,—

(*a*) "fees for technical services" shall have the same meaning as in ***Explanation 2*** to clause (*vii*) of sub-section (1) of section 9 ;

(*b*) "foreign company" shall have the same meaning as in section 80B ;

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

[25]**[**(*6B*) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an agreement entered into [26]**[**before the 1st day of June, 2002**]** by the Central Government with the Government of a foreign State or an international organisation, the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other related agreement approved [before that date] by the Central Government, the tax so paid **;]**

[27]**[**(*6BB*) where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under [28]**[**an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, or entered into after the [29]**[**31st day of March, [30]**[***2007***]]** and approved by the Central Government in this behalf**]** and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

Explanation.—For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident;]

[31]**[**(*6C*) any income arising to such foreign company, as the Central Government may, by notification in the Official Gazette, specify in this behalf, by way of [32]**[**royalty or**]** fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India **;]**

(*7*) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India ;

(*8*) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)—

(*a*) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(*b*) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State ;

[33]**[**(*8A*) in the case of a consultant—

(*a*) any remuneration or fee received by him or it, directly or indirectly, out of the funds made available to an international organisation [hereafter referred to in this clause and clause (*8B*) as the agency] under a technical assistance grant agreement between the agency and the Government of a foreign State ; and

(*b*) any other income which accrues or arises to him or it outside India, and is not deemed to accrue or arise in India, in respect of which such consultant is required to pay any income or social security tax to the Government of the country of his or its origin.

Explanation.—In this clause, "consultant" means—

(*i*) any individual, who is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India ; or

(*ii*) any other person, being a non-resident, engaged by the agency for rendering technical services in India in connection with any technical assistance programme or project, provided the following conditions are fulfilled, namely :—

(*1*) the technical assistance is in accordance with an agreement entered into by the Central Government and the agency ; and

(*2*) the agreement relating to the engagement of the consultant is approved by the prescribed authority for the purposes of this clause ;

(*8B*) in the case of an individual who is assigned to duties in India in connection with any technical assistance programme and project in accordance with an agreement entered into by the Central Government and the agency—

(*a*) the remuneration received by him, directly or indirectly, for such duties from any consultant referred to in clause (*8A*) ; and

(*b*) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the country of his origin, provided the following conditions are fulfilled, namely :—

(*i*) the individual is an employee of the consultant referred to in clause (*8A*) and is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India ; and

(*ii*) the contract of service of such individual is approved by the prescribed authority before the commencement of his service;]

(*9*) the income of any member of the family of any such individual as is referred to in clause (*8*) [34]**[**or clause (*8A*) or, as the case may be, clause (*8B*)**]** accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State [35]**[**or, as the case may be, country of origin of such member**]**;

[36]**[**(*10*) (*i*) any death-*cum*-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence

services ;

(*ii*) any gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972), to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act ;

(*iii*) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service, [37]**[**calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government**]** :

Provided that where any gratuities referred to in this clause are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause [38]**[**shall not exceed the limit so specified**]** :

Provided further that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause [39]**[**shall not exceed the limit so specified**]** as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

[40]**[*** * ***]**

Explanation.—[41]**[**In this clause, and in clause (*10AA*)**]**, "salary" shall have the meaning assigned to it in clause (*h*) of rule 2 of Part A of the Fourth Schedule **;]**

[42]**[**(*10A*) (*i*) any payment in commutation of pension received under the Civil Pensions (Commutation) Rules of the Central Government or under any similar scheme applicable [43]**[**to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority**]** or a corporation established by a Central, State or Provincial Act ;

(*ii*) any payment in commutation of pension received under any scheme of any other employer, to the extent it does not exceed—

(*a*) in a case where the employee receives any gratuity, the commuted value of one-third of the pension which he is normally entitled to receive, and

(*b*) in any other case, the commuted value of one-half of such pension, such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality ;

[44]**[*** * *****]**

[45]**[** (*iii*) any payment in commutation of pension received from a fund under clause (*23AAB*) ;**]**

[46]**[**(*10AA*) (*i*) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement [47]**[**whether**]** on superannuation or otherwise ;

(*ii*) any payment of the nature referred to in sub-clause (*i*) received by an employee, other than an employee of the Central Government or a State Government, in respect of so much of the period of earned leave at his credit at the time of his retirement [48]**[**whether**]** on superannuation or otherwise as does not exceed [49]**[**ten**]** months, calculated on the basis of the average salary drawn by the employee during the period of ten months immediately preceding his retirement [50]**[**whether**]** on superannuation or otherwise, [51]**[**subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government**]** :

Provided that where any such payments are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this sub-clause [52]**[**shall not exceed the limit so specified**]** :

Provided further that where any such payment or payments was or were received in any one or more earlier previous years also and the whole or any part of the amount of such payment or payments was or were not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this sub-clause [53]**[**shall not exceed the limit so specified**],** as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

[54]**[*** * ***]**

Explanation.—For the purposes of sub-clause (*ii*),—

[55]**[*** * ***]** the entitlement to earned leave of an employee shall not exceed thirty days for every year of actual service rendered by him as an employee of the employer from whose service he has retired ;

[56]**[*** * ***]**

[57]**[**(*10B*) any compensation received by a workman under the Industrial Disputes Act, 1947 (14 of 1947), or under any other Act or Rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, [58]**[**at the time of his retrenchment :

Provided that the amount exempt under this clause shall not exceed—

(*i*) an amount calculated in accordance with the provisions of clause (*b*) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947) ; or

[59]**[**(*ii*) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf,**]**

whichever is less :

Provided further that the preceding proviso shall not apply in respect of any compensation received by a workman in accordance with any scheme which the Central Government may, having regard to the need for extending special protection to the workmen in the undertaking to which such scheme applies and other relevant circumstances, approve in this behalf.**]**

Explanation.—For the purposes of this clause—

(*a*) compensation received by a workman at the time of the closing down of the undertaking in which he is employed shall be deemed to be compensation received at the time of his retrenchment ;

(*b*) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, shall be deemed to be compensation received at the time of his retrenchment if—

(*i*) the service of the workman has been interrupted by such transfer ; or

(*ii*) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer ; or

(*iii*) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer ;

(*c*) the expressions "employer" and "workman" shall have the same meanings as in the Industrial Disputes Act, 1947 (14 of 1947);**]**

[60]**[**(*10BB*) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985), and any scheme framed thereunder except payment made to any assessee in connection with the Bhopal Gas Leak Disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster ;**]**

[61]**[** *(*10BC*) any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.*

*Explanation.—For the purposes of this clause, the expression "disaster" shall have the meaning assigned to it under clause (*d*) of section 2 of the Disaster Management Act, 2005 (53 of 2005);***]**

[62]**[**(*10C*) any amount received [63]**[**or receivable**]** by an employee of—

(*i*) a public sector company ; or

(*ii*) any other company ; or

(*iii*) an authority established under a Central, State or Provincial Act ; or

(*iv*) a local [64]**[**authority ; or**]**

[65]**[**(*v*) a co-operative society ; or

(*vi*) a University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956) ; or

(*vii*) an Indian Institute of Technology within the meaning of clause (*g*) of section 3of the Institutes of Technology Act, 1961 (59 of 1961) ; or

[66]**[**(*viia*) any State Government; or**]**

[67]**[**(*viib*)the Central Government; or**]**

[68]**[**(*viic*)an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette, specify in this behalf; or**]**

(*viii*) such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf,**]**

[69]**[**on his**]** [70]**[**voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (*i*), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees**]** :

Provided that the schemes of the said companies or authorities [71]**[**or societies or Universities or the Institutes referred to in sub-clauses (*vii*) and (*viii*)**],** as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including *inter alia* criteria of economic viability) as may be prescribed[72]**[*******]** :

Provided further that where exemption has been allowed to an employee under this clause for any assessment year, no exemption thereunder shall be allowed to him in relation to any other assessment year ;**]**

[76]**[Provided also** that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year;**]**

[73]**[**(*10CC*) in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment, within the meaning of clause (*2*) of section 17, the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in section 200 of the

Companies Act, 1956 (1 of 1956);**]**

[74]**[**(*10D*) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

(*a)* any sum received under sub-section (3) of section 80DD or sub-section (3) of section 80DDA; or

(*b*) any sum received under a Keyman insurance policy; or

(*c*)any sum received under an insurance policy issued on or after the 1st day of April, 2003 in respect of which the premium payable for any of the years during the term of the policy exceeds twenty per cent of the actual capital sum assured:

Provided that the provisions of this sub-clause shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under this sub-clause, effect shall be given to the [75]**[*Explanation***to sub-section (3) of section 80C or the ***Explanation***to sub-section (2A) of section 88, as the case may be**].**

***Explanation**.*—For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person;**]**

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Notes:-

1. Inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

2. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993. Earlier, clause (2A) was inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and was omitted by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date.

3. Omitted by the Finance Act, 2002, w.e.f. 1-4-2003. Prior to its omission, clause (3), as substituted by the Finance Act, 1972, w.e.f. 1-4-1972, and amended by the Finance Act, 1986, w.e.f. 1-4-1987, Finance (No. 2) Act, 1991, w.e.f. 1-10-1991 and Finance Act, 1992, w.e.f. 1-4-1992, read as under :

'(3) any receipts which are of a casual and non-recurring nature, to the extent such receipts do not exceed five thousand rupees in the aggregate :

Provided that where such receipts relate to winnings from races including horse races, the provisions of this clause shall have effect as if for the words "five thousand rupees", the words "two thousand five hundred rupees" had been substituted :

Provided further that this clause shall not apply to—

(i) capital gains chargeable under the provisions of section 45 ; or

(ii) receipts arising from business or the exercise of a profession or occupation ; or

(iii) receipts by way of addition to the remuneration of an employee ;'

4. Substituted for clauses (4) and (4A) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to their substitution, clause (4) was amended by the Finance Act, 1964, w.e.f. 1-4-1964. Clause (4A) was inserted by the Finance Act, 1964, w.e.f. 1-4-1965, subsequently amended by the Finance Act, 1968, w.e.f. 1-4-1969 and substituted by the Finance Act, 1982, w.e.f. 1-4-1982.

5. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

6. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

7. Omitted by the Finance Act, 2005, w.e.f. 1-4-2006. Prior to its omission, second proviso, as inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2006, read as under :

"Provided further that nothing contained in this sub-clause shall apply to any income by way of interest paid or credited on or after the 1st day of April, 2005 to the Non-Resident (External) Account of such individual;"

8. Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

9. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

10. Substituted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier clause (5) was amended by the Finance Act, 1975, w.e.f. 1-4-1975, the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-

1962 and the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

11. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, clause (5A), as inserted by the Taxation Laws (Amendment) Act, 1984, w.r.e.f. 1-4-1982, read as under :

"(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in connection with the shooting of a cinematograph film in India by the individual, firm or company referred to in clause (d) of the Explanation to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering any service in connection with such shooting ;"

12. *Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;* Prior to its omission, clause (5B), as inserted by the Finance Act, 1993, w.e.f. 1-4-1994, and later on amended by the Finance Act, 1999, w.e.f. 1-4-1999, read as under :

'(5B) in the case of an individual who renders services as a technician in the employment (commencing from a date after the 31st day of March, 1993) of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this clause by the prescribed authority or in any business carried on in India and the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India and the tax on his income for such services chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding forty-eight months commencing from the date of his arrival in India :

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition relating to non-residence in India as specified in this clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

Explanation.—For the purposes of this clause, "technician" means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

(iii) such other field as the Central Government may, having regard to availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ;'

13. Omitted by the Finance Act, 2002, w.e.f. 1-4-2003. Prior to its omission, sub-clause (i), as substituted by the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-1962 and amended by the Finance (No. 2) Act, 1977, w.r.e.f. 1-4-1972 and the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999, read as under :

"(i) subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or concessional passage received by or due to such individual—

(a) from his employer, for himself, his spouse and children, in connection with his proceeding on home leave out of India ;

(aa) **[*** * ***]**

(b) from his employer or former employer for himself, his spouse and children, in connection with his proceeding to his home country out of India after retirement from service in India or after the termination of such service ;"

14. Substituted for sub-clauses (ii) to (v) by the Finance Act, 1988, w.e.f. 1-4-1989.

15. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, sub-clause (via), as inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-10-1975, read as under :

"(via) the remuneration received by him as an employee of, or a consultant to, an institution or association or a body established or formed outside India solely for philanthropic purposes, for services rendered by him in India in connection with such purposes ; provided that such institution or association or body and the purposes for which his services are rendered in India are approved by the Central Government ;"

16. *Omitted by the Finance Act, 1993, w.e.f. 1-4-1993;* Prior to omission, sub-clause (vii) was amended by the Finance Act, 1964, w.e.f. 1-4-1964, Finance Act, 1965, w.e.f. 1-4-1965 and Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971.

17. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, sub-clause (viia), as inserted by the Taxation Laws (Amendment) Act, 1970, w.e.f. 1-4-1971 and later on amended by the Direct Taxes (Amendment) Act, 1974, w.r.e.f. 1-4-1973, Finance Act, 1979, w.e.f. 1-6-1979, Finance Act, 1988, w.e.f. 1-4-1988, Finance Act, 1992, w.e.f. 1-6-1992 and Finance Act, 1993, w.e.f. 1-4-1993, read as under :

'(viia) where such individual renders services as a technician in the employment of the Government or of a local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this sub-clause by the prescribed authority or in any business carried on in India and the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India, the remuneration for such services due to or received by him, which is chargeable under the head "Salaries", to the extent mentioned below, namely :—

(I) where such services commence from a date after the 31st day of March, 1971 but before the 1st day of April, 1988,—

(A) such remuneration due to or received by him during the period of twenty-four months commencing from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at the rate of four thousand rupees per month, and where the tax on the excess, if any, of such remuneration for the period aforesaid over the amount so calculated is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], also the tax so paid by the employer ; and

(B) where he continues, with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year, to remain in employment in India after the expiry of the period of twenty-four months aforesaid and the tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding twenty-four months next following the expiry of the first-mentioned twenty-four months ;

(II) where such services commence from a date after the 31st day of March, 1988 but before the 1st day of April, 1993, and tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not exceeding forty-eight months commencing from the date of his arrival in India :

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition relating to non-residence in India as specified in this sub-clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.

Explanation.—For the purposes of this sub-clause, "technician" means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

(iii) such other field as the Central Government may, having regard to the availability of Indians having specialised knowledge and experience therein, the needs of the country and other relevant circumstances, by notification in the Official Gazette, specify, who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised ;'

18. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, sub-clause (ix), as inserted by the Finance Act, 1964, w.e.f. 1-4-1964, read as under :

'(ix) any income chargeable under the head "Salaries" received by or due to him during the thirty-six months commencing from the date of his arrival in India for service rendered as a professor or other teacher in a University or other educational institution, and where any such individual continues to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by the University or other educational institution concerned to the Central Government, the tax so paid for a period not exceeding twenty-four months following the expiry of the thirty-six months aforesaid, provided in either case the following conditions are fulfilled, namely :—

(i) such individual was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India ; and

(ii) his contract of service is approved by the Central Government—

(a) on or before the 1st day of October, 1964, in the case of a professor or other teacher whose service commenced before the 1st day of April, 1964 ;

(b) before the commencement of his service or within one year of such commencement, in any other case ;'

19. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, sub-clause (x), as inserted by the Finance Act, 1964, w.e.f. 1-4-1964, read as under :

"(x) any sum due to or received by him, during the twenty-four months commencing from the date of his arrival in India, for undertaking any research work in India, provided the following conditions are fulfilled, namely :—

(a) the research work is undertaken in connection with a research scheme approved in this behalf by the Central Government on or before the 1st day of October of the relevant assessment year ; and

(b) such sum is payable or paid directly or indirectly by the Government of a foreign State or any institution or association or other body established outside India ;"

20. Inserted by the Finance Act, 1976, w.e.f. 1-4-1976.

21. Inserted by the Finance Act, 1983, w.e.f. 1-4-1984.

22. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

23. Substituted for "and approved by the Central Government, the tax on such income is payable, under the terms of such agreement, by Government or the Indian concern to the Central Government, the tax so paid" by the Finance Act, 1992, w.e.f. 1-6-1992.

24. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.

25. Inserted by the Finance Act, 1988, w.e.f. 1-4-1988.

26. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

27. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

28. Substituted for "an agreement entered after the 31st day of March, 1997 (but before the 1st day of April, 1999) and approved by the Central

Government in this behalf" by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2006. Words "30th day of September, 2005" substituted for "31st day of March, 2005" by the Finance Act, 2005, w.e.f. 1-4-2006. Earlier the bracketed words were amended by the Finance Act, 1999, w.e.f. 1-4-2000.

29. Substituted for "30th day of September, 2005" by the Taxation Laws (Amendment) Act, 2005, w.e.f. 1-4-2006.

30. Substituted for "2006" by the Finance Act, 2006, w.e.f.**1-4-2007.**

31. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

32. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

33. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

34. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

35. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

36. Substituted for existing clause (10) by the Finance Act, 1974, w.e.f. 1-4-1975. Original clause was amended first by the Finance Act, 1972, w.e.f. 1-4-1973 and then by the Finance Act, 1974, with retrospective effect from 1-6-1972/1-4-1962.

37. Substituted for "calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of *thirty-six thousand rupees or twenty months' salary so calculated, whichever is less" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

*Substituted for "thirty thousand rupees" by the Finance Act, 1983, w.r.e.f. 1-4-1982.

38. Substituted for "shall not exceed *thirty-six thousand rupees" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

*Substituted for "thirty thousand rupees" by the Finance Act, 1983, w.r.e.f. 1-4-1982.

39. Substituted for "shall not exceed *thirty-six thousand rupees" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

*Substituted for "thirty thousand rupees" by the Finance Act, 1983, w.r.e.f.

1-4-1982.

40. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original third and fourth provisos were inserted by the Finance Act, 1983, with retrospective effect from 1-4-1982.

41. Substituted for "In this clause" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

42. Inserted by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1962.

43. Substituted for "to the members of the Defence Services or to the employees of a State Government, a local authority" by the Finance Act, 1974, w.r.e.f. 1-4-1962.

44. Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

45. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

46. Inserted by the Finance Act, 1982, w.r.e.f. 1-4-1978.

47. Inserted by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1978.

48. Inserted by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1978.

49. Substituted for "eight" by the Finance Act, 1999, w.r.e.f. 1-4-1998. Earlier "eight" was substituted for "six" by the Direct Tax Laws (Amendment) Act, 1987, with retrospective effect from 1-7-1986.

50. Inserted by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from 1-4-1978.

51. Substituted for "or thirty thousand rupees, whichever is less" by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986.

52. Substituted for "shall not exceed thirty thousand rupees" by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986.

53. Substituted for "shall not exceed thirty thousand rupees" by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986.

54. Third and fourth provisos omitted by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986. Prior to their omission, the third and fourth provisos were amended by the Taxation Laws (Amendment) Act, 1984, w.r.e.f. 1-4-1978.

55. "(i)" omitted by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986.

56. Clause (ii) omitted by the Direct Tax Laws (Amendment) Act, 1987, w.r.e.f. 1-7-1986.

57. Inserted by the Finance Act, 1975, w.e.f. 1-4-1976.

58. Substituted for the following by the Finance Act, 1985, w.e.f. 1-4-1986 :

"at the time of his retrenchment, to the extent such compensation does not exceed—

(i) an amount calculated in accordance with the provisions of clause (b) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947) ; or

(ii) twenty thousand rupees, whichever is less."

59. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

60. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

61. Inserted by the Finance Act, 2007, w.r.e.f. **1-4-2005.**

62. Substituted by the Finance Act, 1993, w.e.f. 1-4-1993. Prior to substitution, clause (10C) was inserted by the Finance Act, 1987, w.e.f. 1-4-1987 and later substituted by the Finance Act, 1992, w.e.f. 1-4-1993.

63. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

64. Substituted for "authority," by the Finance Act, 1994, w.e.f. 1-4-1995.

65. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.

66. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

67. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

68. Inserted by the Finance Act, 2002, w.e.f. 1-4-2002.

69. Substituted for "at the time of his" by the Finance Act, 2003, w.e.f. 1-4-

2004.

70. Substituted for "voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, to the extent such amount does not exceed five lakh rupees" by the Finance Act, 2000, w.e.f. 1-4-2001.

71. Inserted by the Finance Act, 1994, w.e.f. 1-4-1995.

72. Words "and such schemes in relation to companies referred to in sub-clause (ii) or co-operative societies referred to in sub-clause (v) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf" omitted by the Finance Act, 2000, w.e.f. 1-4-2001. Earlier the quoted words were amended by the Finance Act, 1994, w.e.f. 1-4-1995.

73. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

74. Substituted by the Finance Act, 2003, w.e.f. 1-4-2004. Prior to its substitution, clause (*10D*), as inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1962, and later on amended by the Finance Act, 1995, w.e.f. 1-4-1996 and Finance (No. 2) Act, 1996, w.e.f. 1-10-1996, read as under :

'(*10D*) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy other than any sum received under sub-section (3) of section 80DDA or under a Keyman insurance policy.

Explanation.—For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person;'

75. Substituted for "***Explanation*** to sub-section (2A) of section 88" by the Finance Act, 2005, w.e.f. 1-4-2006.

76. Inserted vide Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2010

Incomes not included in total income [Clause (11) to Clause (17)]

(*11*) any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies [1]**[**or from any other provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette**];**

(*12*) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule ;

[2]**[**(*13*) any payment from an approved superannuation fund made—

(*i*) on the death of a beneficiary ; or

(*ii*) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement ; or

(*iii*) by way of refund of contributions on the death of a beneficiary ; or

(*iv*) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon**;]**

[3]**[**(*13A*) any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent [4]**[*** * ***]** as may be prescribed having regard to the area or place in which such accommodation is situate and other relevant considerations.**]**

[5]**[*****Explanation.*****—**For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

(*a*) the residential accommodation occupied by the assessee is owned by him ; or

(*b*) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him ;**]**

[6]**[**(*14*) (*i*) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (*2*) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, [7]**[**as may be prescribed**],** to the extent to which such expenses are actually incurred for that purpose ;

(*ii*) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, [8]**[**as may be prescribed and to the extent as may be prescribed**] :]**

[9]**[Provided** that nothing in sub-clause (*ii*) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence ;**]**

(*14A*) [10]**[*******]**

(*15*) [11]**[**(*i*) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification ;**]**

[12]**[**(*iib*) [13]**[**in the case of an individual or a Hindu undivided family,**]** interest on such Capital Investment Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf :**]**

[14]**[Provided** that the Central Government shall not specify, for the purposes of this sub-clause, such Capital Investment Bonds on or after the 1st day of June, 2002;**]**

[15]**[(***iic*) in the case of an individual or a Hindu undivided family, interest on such Relief Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf **;]**

[16]**[**(*iid*) interest on such bonds, as the Central Government may, by notification in the Official Gazette, specify, arising to—

(*a*) a non-resident Indian, being an individual owning the bonds ; or

(*b*) any individual owning the bonds by virtue of being a nominee or survivor of the non-resident Indian ; or

(*c*) any individual to whom the bonds have been gifted by the non-resident Indian :

Provided that the aforesaid bonds are purchased by a non-resident Indian in foreign exchange and the interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India :

Provided further that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this sub-clause shall continue to apply in relation to such individual :

Provided also that in a case where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled, the provisions of this sub-clause shall not apply to such individual in relation to the assessment year relevant to such previous year :

[17]**[Provided also** that the Central Government shall not specify, for the purposes of this sub-clause, such bonds on or after the 1st day of June, 2002.**]**

Explanation.—For the purposes of this sub-clause, the expression "non-resident Indian" shall have the meaning assigned to it in clause (*e*) of section 115C**;]**

(*iii*) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949;

[18]**[**(*iiia*) interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the Reserve Bank of India, with any scheduled bank.

Explanation.—For the purposes of this sub-clause, "scheduled bank" shall have the meaning assigned to it in [19]**[**clause (*ii*) of the ***Explanation*** to clause (*viia*) of sub-section (1) of section 36**];]**

[20]**[**(*iiib*) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986**;]**

[21]**[**(*iiic*) interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework-agreement for financial co-operation entered into on the 25th day of November, 1993 by the Central Government with that Bank;**]**

(*iv*) interest payable—

[22]**[**(*a*) by Government or a local authority on moneys borrowed by it before the 1st day of June, 2001 from, or debts owed by it before the 1st day of June, 2001 to, sources outside India;**]**

(*b*) by an industrial undertaking in India on moneys borrowed by it under [23]**[**a loan agreement entered into before the 1st day of June, 2001 with any such financial institution] in a foreign country as may be approved in this behalf by the Central Government by general or special order ;

(*c*) by an industrial undertaking in India on any moneys borrowed or debt incurred by it [24]**[**before the 1st day of June, 2001**]** in a foreign country in respect of the purchase outside India of raw materials [25]**[**or components**]** or capital plant and machinery, [26]**[**to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment**.]**

[27]**[**[28]**[*Explanation 1.*]—**For the purposes of this item, "purchase of capital plant and machinery" includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery**.]**

[29]**[*Explanation 2.*—**For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;**]**

[30]**[**(*d*) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), [31]**[**or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981),**]** [32]**[**or the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987),**]** [33]**[**or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989),**]** or the Industrial Credit and Investment Corporation of India **[**a company formed and registered under the Indian Companies Act, 1913 (7 of 1913)**]**, on any moneys borrowed by it from sources outside India [34]**[**before the 1st day of June, 2001**]**,to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment**;]**

[35]**[**(*e*) by any other financial institution established in India or 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), on any moneys borrowed by it from sources outside India [36]**[**before the 1st day of June, 2001**]** under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;**]**

[37][(*f*) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government [38][before the 1st day of June, 2001] having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

[39][(*fa*) by a scheduled bank [40][***] [41][to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (6) of section 6] on deposits in foreign currency where the acceptance of such deposits by the bank is approved by the Reserve Bank of India.

[42][Explanation.—*For the purposes of this item, the expression "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), but does not include a co-operative bank;*]

[43][(*g*) by a 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, [44][being a company eligible for deduction under clause (*viii*) of sub-section (1) of section 36] on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government [45][before the 1st day of June, 2003], to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.]

Explanation.—For the purposes of [46][items (*f*) [47][,(*fa*)] and (*g*)], the expression "foreign currency" shall have the meaning assigned to it in the Foreign Exchange Regulation Act, 1973 (46 of 1973);]

[48][(*h*) by any public sector company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

[49][(*i*) by Government on deposits made by an employee of the Central Government or a State Government [50][or a public sector company], in accordance with such scheme as the Central Government may, by notification in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise.]

[51]**[**[52]**[*Explanation 1*].—**For the purposes of this sub-clause, the expression "industrial undertaking" means any undertaking which is engaged in—

(*a*) the manufacture or processing of goods; or

[53]**[**(*aa*)the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or**]**

(*b*) the business of generation or distribution of electricity or any other form of power; or

[54]**[**(*ba*) the business of providing telecommunication services; or**]**

(*c*) mining; or

(*d*) the construction of ships; or

[55]**[**(*da*)the business of ship-breaking; or**]**

[56]**[**(*e*) the operation of ships or aircrafts or construction or operation of rail systems**.]]**

[57]**[*Explanation 1A.*—**For the purposes of this sub-clause, the expression "interest" shall not include interest paid on delayed payment of loan or on default if it is in excess of two per cent per annum over the rate of interest payable in terms of such loan.**]**

[58]**[*Explanation 2.*—**For the purposes of this clause, the expression "interest" includes hedging transaction charges on account of currency fluctuation**;]**

[59]**[**(*v*) interest on—

(*a*) securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank's SGL Account No. SL/DH 048;

(*b*) deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account, with the Reserve Bank of India or with a public sector bank, as the Central Government may, by notification in the Official Gazette, specify, whether prospectively or retrospectively but in no case earlier than the 1st day of April, 1994 in this behalf.

Explanation*.*—For the purposes of this sub-clause, the expression "public sector bank" shall have the meaning assigned to it in the *Explanation* to clause (*23D*);**]**

[60]**[(***vi*) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government**;]**

[61]**[***(*vii*) interest on bonds—*

*(*a*) issued by a local authority or by a State Pooled Finance Entity; and*

*(*b*) specified by the Central Government by notification in the Official Gazette.*

Explanation*.—For the purposes of this sub-clause, the expression "State Pooled Finance Entity" shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;***]**

[62]**[**(*viii*) any income by way of interest received by a non-resident or a person who is not ordinarily resident, in India on a deposit made on or after the 1st day of April, 2005, in an Offshore Banking Unitreferred to in clause (*u*) of section 2 of the Special Economic Zones Act, 2005;**]**

[63]**[**(*15A*) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the Government of a foreign State or a foreign enterprise under an agreement [64]**[**[65]**[**, not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999,**]** and**]** approved by the Central Government in this behalf :

[66]**[Provided** that nothing contained in this clause shall apply to any such agreement entered into on or after the [67]**[**1st day of April, [68]**[***2007***]].]**

Explanation.—For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident;**]**

(*16*) scholarships granted to meet the cost of education;

[69]**[**(*17*) any income by way of—

(*i*) daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof; [70]**[*** * ***]**

[71]**[**(*ii*) any allowance received by any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986;

[72]**[** *(*iii*) any constituency allowance received by any person by reason of his membership of any State Legislature under any Act or rules made by that State Legislature;***]]**

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Notes :-

1. Inserted by the Finance Act, 1968, w.e.f. 1-4-1969.

2. Substituted by the Finance Act, 1965, w.r.e.f. 1-4-1962.

3. Inserted by the Direct Taxes (Amendment) Act, 1964, w.e.f. 6-10-1964.

4. "(not exceeding four hundred rupees per month)" omitted by the Finance Act, 1986, w.e.f. 1-4-1987. Earlier, in this omitted expression "four" was substituted for "three" by the Finance Act, 1975, w.e.f. 1-4-1975.

5. Inserted by the Taxation Laws (Amendment) Act, 1984, w.r.e.f. 1-4-1976.

6. Substituted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Prior to its substitution, clause (14) was amended by the Finance Act, 1975, w.r.e.f. 1-4-1962.

7. Substituted for "as the Central Government may, by notification in the Official Gazette, specify" by the Finance Act, 1995, w.e.f. 1-7-1995.

8. Substituted for "as the Central Government may, by notification in the Official Gazette, specify, to the extent specified in the notification" by the Finance Act, 1995, w.e.f. 1-7-1995.

9. Inserted by the Direct Tax Laws (Second Amendment) Act, 1989, w.e.f. 1-4-1989.

10. Omitted by the Finance Act, 2002, w.e.f. 1-4-2003. Prior to its omission, clause (14A), as inserted by the Finance Act, 1989, w.e.f. 1-4-1989, read as under :

' (14A) any income received by a public financial institution as exchange risk premium from any person borrowing foreign currency from such institution, provided the amount of such premium is credited by such institution to a fund specified under clause (23E).

Explanation.—For the purposes of this clause,—

(i) the expression "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956) ;

(ii) the expression "exchange risk premium" means a premium paid by a person borrowing foreign currency from a public financial institution to cover the risk which may be borne by such institution on account of fluctuations in exchange rate of foreign currencies borrowed by such institution ;'

11. Substituted for sub-clauses (i), (ia), (ib), (ii) and (iia) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-clauses (ia) and (ib) were inserted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1965, w.e.f. 4-12-1965 and Special Bearer Bonds (Immunities & Exemptions) Act, 1981, w.e.f. 12-1-1981, respectively ; sub-clause (ii) was amended by the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965, the Finance Act, 1979, w.e.f. 1-4-1980 and the Finance Act, 1987, w.r.e.f. 1-4-1983 ; and sub-clause (iia) was inserted by the Finance Act, 1968, w.e.f. 1-4-1969.

12. Inserted by the Finance Act, 1982, w.e.f. 1-4-1983.

13. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

14. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

15. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

16. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

17. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

18. Inserted by the Finance Act, 1985, w.e.f. 1-4-1985.

19. Substituted for "the ***Explanation*** to clause (iii) of sub-section (5) of section 11" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.

20. Inserted by the Taxation Laws (Amendment) Act, 2003, w.r.e.f. 1-4-2001.

21. Inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2005.

22. Substituted by the Finance Act, 2001, w.e.f. 1-4-2002. Prior to its substitution, item (a), as amended by the Finance Act, 1983, w.e.f. 1-4-1983, read as under :

"(a) by Government or a local authority on moneys borrowed by it from, or debts owed by it to, sources outside India ;"

23. Substituted for "a loan agreement entered into with any such financial institution" by the Finance Act, 2001, w.e.f. 1-4-2002.

24. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

25. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

26. Substituted for "in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment" by the Finance Act, 1964, w.e.f. 1-4-1964.

27. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

28. ***Explanation*** renumbered as ***Explanation 1*** by the Taxation Laws (Amendment) Act, 2003, w.r.e.f. 1-4-1962.

29. Inserted by the Taxation Laws (Amendment) Act, 2003, w.r.e.f. 1-4-1962.

30. Inserted by the Direct Taxes (Amendment) Act, 1974, w.r.e.f. 1-4-1973.

31. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

32. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

33. Inserted by the Finance Act, 1992, w.e.f. 1-4-1992.

34. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

35. Inserted by the Direct Taxes (Amendment) Act, 1974, w.r.e.f. 1-4-1973.

36. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

37. Inserted by the Finance Act, 1976, w.e.f. 1-6-1976.

38. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

39. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

40. Words "before the 1st day of April, 2005" omitted by the Finance Act, 2005, w.e.f. 1-4-2006. Earlier the quoted words were inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2006.

41. Inserted by the Finance Act, 1993, w.e.f. 1-4-1993.

42. Substituted by the Finance Act, 2007, w.e.f.**1-4-2007.** Prior to its substitution, the Explanation read as under :

'Explanation.—For the purposes of this item, the expression "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (viia) of sub-section (1) of section 36;'

43. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

44. Substituted for "being a company approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36" by the Finance Act, 2000, w.e.f. 1-4-2000.

45. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

46. Substituted for "this item" by the Finance Act, 1983, w.e.f. 1-4-1983.

47. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

48. Inserted by the Finance Act, 1987, w.e.f. 1-4-1987.

49. Inserted by the Finance Act, 1989, w.e.f. 1-4-1990.

50. Inserted by the Finance Act, 1990, w.e.f. 1-4-1991.

51. Inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991.

52. ***Explanation*** renumbered as ***Explanation 1*** by the Finance Act, 1999, w.e.f. 1-4-2000.

53. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

54. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

55. Inserted by the Taxation Laws (Amendment) Act, 2003, w.r.e.f. 1-4-1991.

56. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its substitution, clause (e), as inserted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1991, read as under :

"(e) the operation of ships or aircrafts;"

57. Substituted by the Finance Act, 2001, w.e.f. 1-4-2002. Prior to its substitution, Explanation 1A, as inserted by the Finance Act, 2000, w.e.f. 1-4-2001, read as under :

'Explanation 1A.—For the purposes of this sub-clause, the expression "interest" shall not include interest paid on delayed payment of loan or on default.'

58. Inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

59. Substituted by the Finance Act, 1995, w.e.f. 1-4-1995. Prior to its substitution, sub-clause (v), as inserted by the Finance Act, 1990, w.r.e.f. 1-4-1989 and later amended by the Finance Act, 1993, w.r.e.f. 2-11-1992, read as under:

"(v) interest on securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in Reserve Bank's SGL Account No. SL/DH 048;"

60. Inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

61. Substituted by Finance Act, 2007, w.e.f. 1-4-2008. Prior to substitution it was read as under:

"(*vii*) interest on bonds—

(*a*) issued by a local authority; and

(*b*) specified by the Central Government by notification in the Official Gazette;"

Earlier it was inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

62. Inserted by the Special Economic Zones Act, 2005, w.e.f. 10-2-2006.

63. Substituted by the Finance Act, 1995, w.e.f. 1-4-1996. Prior to its substitution, clause (15A), as inserted by the Income-tax (Amendment) Act, 1989, w.e.f. 24-1-1989, read as under :

'(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft on lease from the Government of a foreign State or a foreign enterprise under an agreement approved by the Central Government in this behalf.

Explanation.—For the purpose of this clause, "foreign enterprise" means a person who is a non-resident;'

64. Inserted by the Finance Act, 1997, w.e.f. 1-4-1998.

65. Substituted for "entered before the 1st day of April, 1997" by the Finance Act, 1999, w.e.f. 1-4-2000.

66. Inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2006.

67. Substituted for "1st day of October, 2005" by the Taxation Laws (Amendment) Act, 2005, w.e.f. 1-4-2006. Earlier "1st day of October, 2005" was substituted for "1st day of April, 2005" by the Finance Act, 2005, w.e.f. 1-4-2006.

68. Substituted for "2006" by the Finance Act, 2006, w.e.f.**1-4-2007.**

69. Substituted by the Taxation Laws (Amendment & Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1986. Prior to its substitution, clause (17) was amended by the Finance Act, 1976, w.e.f. 1-4-1976.

70. Word "and" omitted by the Finance Act, 1987, w.r.e.f. 1-4-1986.

71. Substituted by the Finance Act, 1987, w.r.e.f. 1-4-1986. Earlier sub-clause (ii) was amended by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1986.

72. Substituted by the Finance Act, 2006, w.e.f. 1-4-2007. Prior to its substitution, sub-clause (iii), as amended by the Finance Act, 1997, w.e.f. 1-4-1998, read as under :

"(iii) all other allowances not exceeding two thousand rupees per month in the aggregate received by any person by reason of his membership of any State Legislature or of any Committee thereof, which the Central Government may, by notification* in the Official Gazette, specify in this behalf;"

Incomes not included in total income [Clause (17A) to Clause (23C)]

[1]**[**(*17A*) any payment made, whether in cash or in kind,—

(*i*) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or

(*ii*) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest**;]**

[2]**[**(*18*) any income by way of—

(*i*)pension received by an individual who has been in the service of the Central Government or State Government and has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*ii*) family pension received by any member of the family of an individual referred to in sub-clause (*i*).

Explanation.—For the purposes of this clause, the expression "family" shall have the meaning assigned to it in the ***Explanation*** to clause (*5*);**]**

(*18A*) [3]**[****]**

[4]**[**(*19*) family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including Paramilitary forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed**;]**

[5]**[**(*19A*) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was exempt from income-tax before the commencement of

the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949, or the Part B States (Taxation Concessions) Order, 1950, or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax;**]**

(*20*) the income of a local authority which is chargeable under the head [6]**[*** * ***]** "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service [7]**[**(not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area].

[8]**[*Explanation.*—**For the purposes of this clause, the expression "local authority" means—

(*i*) Panchayat as referred to in clause (*d*) of article 243 of the Constitution; or

(*ii*) Municipality as referred to in clause (*e*) of article 243P of the Constitution; or

(*iii*) Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or

(*iv*) Cantonment Board as defined in section 3 of the Cantonments Act, 1924 (2 of 1924);**]**

(*20A*) [9]**[*****]**

[10]**[** (*21*) any income of a scientific research association for the time being approved for the purpose of clause (*ii*) of sub-section (1) of section 35:

Provided that the scientific research association—

(*a*) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely :—

(*i*) in sub-section (2),—

(*1*) the words, brackets, letters and figure "referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the *Explanation* to that sub-section" shall be omitted;

(*2*) for the words "to charitable or religious purposes", the words "for the purposes of scientific research" shall be substituted;

(*3*) the reference to "Assessing Officer" in clause (*a*) thereof shall be construed as a reference to the "prescribed authority" referred to in clause (*ii*) of sub-section (1) of section 35;

(*ii*) in sub-section (3), in clause (*a*), for the words "charitable or religious purposes", the words "the purposes of scientific research" shall be substituted; and

[11]**[**(*b*) does not invest or deposit its funds, other than—

(*i*) any assets held by the scientific research association where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the scientific research association before the 1st day of March, 1983;

(*iii*) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (*i*), by way of bonus shares allotted to the scientific research association;

(*iv*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11**:]**

[12]**[Provided further** that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (*b*) of the first proviso to this clause, subject to the condition that such voluntary contribution is not held by the scientific research association, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:

Provided also] that nothing contained in this clause shall apply in relation to any income of the scientific research association, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business**:]**

[13]**[Provided also**that where the scientific research association is approved by the Central Government and subsequently that Government is satisfied that—

(*i*) the scientific research association has not applied its income in accordance with the provisions contained in clause (*a*) of the first proviso; or

(*ii*) the scientific research association has not invested or deposited its funds in accordance with the provisions contained in clause (*b*) of the first proviso; or

(*iii*) the activities of the scientific research association are not genuine; or

(*iv*) the activities of the scientific research association are not being carried out in accordance with all or any of the conditions subject to which such association was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association and to the Assessing Officer;**]**

(*22*) [14]**[*******]**

(*22A*) [15]**[*******]**

[16]**[**(*22B*) any income of such news agency set up in India solely for collection and distribution of news as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members:

Provided further that any notification issued by the Central Government under this clause shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification**:]**

[17]**[Provided also** that where the news agency has been specified, by notification, by the Central Government and subsequently that Government is satisfied that such news agency has not applied or accumulated or distributed its income in accordance with the provisions contained in the first proviso, it may, at any time after giving a reasonable opportunity of showing cause, rescind the notification and forward a copy of the order rescinding the notification to such agency and to the Assessing Officer**;]**

(*23*) [18]**[********]**

[19]**[**(*23A*) any income (other than income chargeable under the head [20]**[*** * ***]** "Income from house property" or any income received for rendering any specific services or

income by way of interest or dividends derived from its investments) of an association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other profession as the Central Government may specify in this behalf, from time to time, by notification in the Official Gazette:

Provided that—

(*i*) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

(*ii*) the association or institution is for the time being approved for the purpose of this clause by the Central Government by general or special order**:]**

[21]**[Provided further** that where the association or institution has been approved by the Central Government and subsequently that Government is satisfied that—

(*i*) such association or institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or

(*ii*) the activities of the association or institution are not being carried out in accordance with all or any of the conditions subject to which such association or institution was approved, it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association or institution and to the Assessing Officer;**]**

[22]**[**(*23AA*) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants;**]**

[23]**[**(*23AAA*) any income received by any person on behalf of a fund established, for such purposes as may be notified by the Board in the Official Gazette, for the welfare of employees or their dependants and of which fund such employees are members if such fund fulfils the following conditions, namely :—

(*a*) the fund—

(*i*) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(*ii*) invests its funds and contributions and other sums received by it in the forms or modes specified in sub-section (5) of section 11;

(*b*) the fund is approved by the Commissioner in accordance with the rules made in this behalf:

Provided that any such approval shall at any one time have effect for such assessment year or years not exceeding three assessment years as may be specified in the order of approval**;]**

[24]**[**(*23AAB*) any income of a fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 [25]**[**or any other insurer**]** under a pension scheme,—

(*i*) to which contribution is made by any person for the purpose of receiving pension from such fund;

(*ii*) which is approved by the Controller of Insurance [26]**[**or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), as the case may be**]**.

Explanation.—For the purposes of this clause, the expression "Controller of Insurance" shall have the meaning assigned to it in clause (*5B*) of section 2 of the Insurance Act, 1938 (4 of 1938);**]**

[27]**[**(*23B*) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries:

Provided that—

(*i*) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and

(*ii*) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission:

Provided further that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted:

[28]**[Provided also** that where the institution has been approved by the Khadi and Village Industries Commission and subsequently that Commission is satisfied that—

(*i*) the institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or (*ii*) the activities of the institution are not being carried out in accordance with all or any of the conditions subject to which such institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such institution and to the Assessing Officer.**]**

Explanation.—For the purposes of this clause,—

(*i*) "Khadi and Village Industries Commission" means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956);

(*ii*) "khadi" and "village industries" have the meanings respectively assigned to them in that Act;**]**

[29]**[**(*23BB*) any income of an authority (whether known as the Khadi and Village Industries Board or by any other name) established in a State by or under a State or Provincial Act for the development of khadi or village industries in the State.

Explanation.—For the purposes of this clause, "khadi" and "village industries" have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956);**]**

[30]**[**(*23BBA*) any income of any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central, State or Provincial Act which provides for the administration of any one or more of the following, that is to say, public religious or charitable trusts or endowments (including maths, temples, gurdwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or societies for religious or charitable purposes registered as such under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force:

Provided that nothing in this clause shall be construed to exempt from tax the income of any trust, endowment or society referred to therein;**]**

[31]**[**(*23BBB*) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "European Economic Community" means the European Economic Community established by the Treaty of Rome of 25th March, 1957**;]**

[32][(*23BBC*) any income of the SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st day of December, 1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Cooperation;**]**

[33][(*23BBD*) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as **"ASOSAI-SECRETARIAT"** under the Societies Registration Act, 1860 (21 of 1860) for [34][[35][*seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008*]]**;**

(*23BBE*) any income of the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);**]**

[36]**[** *(*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;*

*(*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*; **]**

[78]**[***(*23BBG*) any income of the Central Electricity Regulatory Commission constituted under sub-section (1) of section 76 of the Electricity Act, 2003 (36 of 2003);***]**

[37]**[**(*23C*) any income received by any person on behalf of—

(*i*) the Prime Minister's National Relief Fund; or (*ii*) the Prime Minister's Fund (Promotion of Folk Art); or

(*iii*) the Prime Minister's Aid to Students Fund; [38]**[**or**]**

[39]**[**(*iiia*) the National Foundation for Communal Harmony; or**]**

[40]**[**(*iiiab*) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(*iiiac*) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(*iiiad*) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed; or

(*iiiae*) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed; or**]**

[41]**[**(*iv*) any other fund or institution established for charitable purposes [42]**[** *which may be approved by the prescribed authority***]**, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(*v*) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, [43]**[***which may be approved by the prescribed authority***],** having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof;

[44]**[**(*vi*) any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (*iiiab*) or sub-clause (*iiiad*) and which may be approved by the prescribed authority; or

(*via*)any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (*iiiac*) or sub-clause (*iiiae*) and which may be approved by the prescribed authority :**]**

Provided that the fund or trust or institution [45]**[**or any university or other educational institution or any hospital or other medical institution**]** referred to in sub-clause (*iv*) or sub-clause (*v*) [46]**[**or sub-clause (*vi*) or sub-clause (*via*)**]** shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under sub-clause (*iv*) or sub-clause (*v*) [47]**[**or sub-clause (*vi*) or sub-clause (*via*)**]** :

[48]**[Provided further** *that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the prescribed authority may also make such inquiries as it deems necessary in this behalf***:]**

Provided also that the fund or trust or institution [49]**[**or any university or other educational institution or any hospital or other medical institution**]** referred to in sub-clause (*iv*) or sub-clause (*v*) [50]**[**or sub-clause (*vi*) or sub-clause (*via*)**]**—

[51]**[**(*a*)applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years; and**]**

[52]**[**(*b*) does not invest or deposit its funds, other than—

(*i*) any assets held by the fund, trust or institution [53]**[**or any university or other educational institution or any hospital or other medical institution**]** where such assets form part of the corpus of the fund, trust or institution [54]**[**or any university or other educational institution or any hospital or other medical institution**]** as on the 1st day of June, 1973;

[55]**[**(*ia*) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998**;]**

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution [56]**[**or any university or other educational institution or any hospital or other medical institution**]** before the 1st day of March, 1983;

(*iii*) any accretion to the shares, forming part of the corpus mentioned in sub-clause (*i*) **[57][**and sub-clause (*ia*)**],** by way of bonus shares allotted to the fund, trust or institution **[58][**or any university or other educational institution or any hospital or other medical institution**] ;**

(*iv*) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:**]**

Provided also that the exemption under sub-clause (*iv*) or sub-clause (*v*) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, **[59][**1993**]** :

[60][Provided also that the exemption under sub-clause (*vi*) or sub-clause (*via*) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001 **:]**

[61][Provided also that the exemption under sub-clause (*iv*) or sub-clause (*v*) **[62][**or sub-clause (*vi*) or sub-clause (*via*)**]** shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (*b*) of the third proviso to this sub-clause, subject to the condition that such voluntary contribution is not held by the trust or institution **[63][**or any university or other educational institution or any hospital or other medical institution**]**, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:**]**

Provided also that nothing contained in sub-clause (*iv*) or sub-clause (*v*) **[64][**or sub-clause (*vi*) or sub-clause (*via*)**]** shall apply in relation to any income of the fund or trust or institution **[65][**or any university or other educational institution or any hospital or other medical institution**],** being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:

Provided also that any **[66][***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***]** (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification**:]**

[67]**[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*[68]**[***sub-clause (*iv*) or sub-clause (*v*) or*] *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:***]**

[69]**[Provided also** that any amount of donation received by the fund or institution in terms of clause (*d*) of sub-section (2) of section 80G [70]**[**in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (*v*) of sub-section (5C) of that section, in the manner specified in that clause, or**]** which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, [71]**[**2004**]** shall be deemed to be the income of the previous year and shall accordingly be charged to tax:**]**

[72]**[*****]**

[73]**[Provided also**that where 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*) does not apply its income during the year of receipt and accumulates it, any payment or credit out of such accumulation to any trust or institution registered under section 12AA or to any 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*) shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established :

Provided also that where the fund or institution referred to in sub-clause (*iv*) or trust or institution referred to in sub-clause (*v*) is notified by the Central Government [74]**[***or is approved by the prescribed authority, as the case may be***,]** or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*), is approved by the prescribed authority and subsequently that Government or the prescribed authority is satisfied that—

(*i*) such fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not—

(*A*) applied its income in accordance with the provisions contained in clause (*a*) of the third proviso; or

(*B*) invested or deposited its funds in accordance with the provisions contained in clause (*b*) of the third proviso; or

(*ii*) the activities of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution—

(*A*) are not genuine; or

(*B*) are not being carried out in accordance with all or any of the conditions subject to which it was notified or approved :

it may, at any time after giving a reasonable opportunity of showing cause against the proposed action to the concerned fund or institution or trust or any university or other educational institution or any hospital or other medical institution, rescind the notification or, by order, withdraw the approval, as the case may be, and forward a copy of the order rescinding the notification or withdrawing the approval to such fund or institution or trust or any university or other educational institution or any hospital or other medical institution and to the Assessing Officer;**]**

[75]**[Provided also** that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be [79]**[**made on or before the 30th day of September of the relevant assessment year**]** from which the exemption is sought :**]**

[76]**[Provided also** *that any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of the said section shall be included in the total income* **:]**

[77]**[Provided also** *that all pending applications, on which no notification has been issued under sub-clause (*iv*) or sub-clause (*v*) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority*

may proceed with such applications under those sub-clauses from the stage at which they were on that day ; **]**

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Notes :-

1. Substituted for clauses (17A), (17B) and (18) by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original clauses (17A) and (17B) were inserted by the Direct Taxes (Amendment) Act, 1974, with retrospective effect from 1-4-1973. Clause (17A) was later on amended by the Finance Act, 1980, w.e.f. 1-4-**1980.**

2. Inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

3. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, clause (18A), as inserted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.e.f. 9-9-1972, read as under :

"(18A) any ***ex gratia*** payments made by the Central Government consequent on the abolition of privy purse;"

4. Inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2005. Earlier original clause (19) was omitted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.e.f. 2-4-1973.

5. Inserted by the Rulers of Indian States (Abolition of Privileges) Act, 1972, w.r.e.f. 28-12-1971.

6. ' "Interest on securities," ' omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

7. Substituted for "within its own jurisdictional area" by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.

8. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

9. Omitted by the Finance Act, 2002, w.e.f. 1-4-2003. Prior to its omission, clause (20A), as inserted by the Finance Act, 1970, w.r.e.f. 1-4-1962, read as under :

"(20A) any income of an 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;"

10. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1990. Earlier clause (21), was amended by the Finance Act, 1983, w.e.f. 1-4-1984, Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

11. Substituted by the Finance Act, 1992, w.r.e.f. 1-4-1990.

12. Substituted for the words "Provided further" by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

13. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

14. Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to its omission, clause (22) read as under :

"(22) any income of a university or other educational institution, existing solely for educational purposes and not for purposes of profit;" Clauses (22) and (22A) are now re-enacted in section 10(23C).

15. *Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;* Prior to its omission, clause (22A), as inserted by the Finance Act, 1970, w.e.f. 1-4-1970, read as under :

"(22A) any income of a hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit;"

16. Inserted by the Finance Act, 1994, w.e.f. 1-4-1994.

17. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

18. *Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;* Prior to its omission, clause (23), as amended by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989, substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1990 and further amended by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990, Finance Act, 1992, w.r.e.f. 1-4-1990/w.e.f. 1-4-1992 and Finance Act, 2000, w.e.f. 1-4-2001, read as under :

'(23) any income of an association or institution established in India which may be notified by the Central Government in the Official Gazette having regard to the fact that the association or institution has as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf :

Provided that the association or institution shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under this clause:

Provided further that the Central Government may, before notifying the association or institution under this clause, call for such documents (including audited annual accounts) or information from the association or institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the association or institution and that Government may also make such inquiries as it may deem necessary in this behalf :

Provided also that the association or institution,—

(a) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely :—

(i) in sub-section (2),—

(1) the words, brackets, letters and figure "referred to in clause (a) or clause (b) of sub-section (1) read with the Explanation to that sub-section" shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of games or sports" shall be substituted;

(3) the reference to "Assessing Officer" in clause (a) thereof shall be construed as a reference to the "prescribed authority" referred to in the first proviso to this clause;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the words "the purposes of games or sports" shall be substituted; and

(b) does not invest or deposit its funds, other than—

(i) any assets held by the association or institution where such assets form part of the corpus of the fund of the association or institution as on the 1st day of June, 1973;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the association or institution before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the association or institution;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify**,** for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and

(c) does not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it;

(d) applies the amount received by way of donations referred to in clause (c) of sub-section (2) of section 80G for purposes of development of infrastructure for games or sports in India or for sponsoring of games and sports in India :

Provided also that the exemption under this clause shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 1993 :

Provided also that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the third proviso to this clause, subject to the condition that such voluntary contribution is not held by the association or institution, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later :

Provided also that nothing contained in this clause shall apply in relation to any income of the association or institution, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business :

Provided also that any notification issued by the Central Government under this clause in relation to any association or institution shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued), as may be specified in the notification*;'

19. Inserted by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1962.

20.' "Interest on securities" or' omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

21. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

22. Inserted by the Finance (No. 2) Act, 1980, w.r.e.f. 1-4-1962.

23. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

24. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

25. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

26. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

27. Inserted by the Finance Act, 1974, w.e.f. 1-6-1974.

28. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

29. Inserted by the Finance Act, 1979, w.r.e.f. 1-4-1962.

30. Inserted by the Finance Act, 1979, w.r.e.f. 1-4-1962.

31. Inserted by the Finance Act, 1993, w.e.f. 1-4-1994.

32. Inserted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1992.

33. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

34. Words "ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011" shall be substituted for "seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008" by the Finance Act, 2007, w.e.f. 1-4-2008.

35. Substituted for "three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004" by the Finance Act, 2003, w.e.f. 1-4-2004.

36. Inserted by the Taxation Laws (Amendment) Act, 2006, w.r.e.f. **1-4-2006.**

37. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

38. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date.

39. Inserted by the Finance Act, 1993, w.e.f. 1-4-1993.

40. Sub-clauses (iiiab) to (iiiae) inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

41. Substituted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1990. Earlier, sub-clauses (iv) and (v) were omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989 and later reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

42. Substituted for "which may be notified by the Central Government in the Official Gazette" by the Finance Act, 2007, w.e.f. **1-6-2007.**

43. Substituted for "which may be notified by the Central Government in the Official Gazette" by the Finance Act, 2007, w.e.f. **1-6-2007.**

44. Sub-clauses (vi) and (via) inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

45. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

46. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

47. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

48. Substituted by the Finance Act, 2007, w.e.f. **1-6-2007.** Prior to its substitution, the second proviso, as amended by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999 and later on substituted by the Finance Act, 1999, w.e.f. 1-4-1999, read as under :

"Provided further that the Central Government, before notifying the fund or trust or institution, or the prescribed authority, before approving any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the Central Government or the prescribed authority, as the case may be, may also make such inquiries as it deems necessary in this behalf :"

49. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

50. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

51. Substituted by the Finance Act, 2002, w.e.f. 1-4-2003. Prior to its substitution, clause (a), as amended by the Finance Act, 2001, w.e.f. 1-4-2002, read as under :

"(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case where more than twenty-five per cent of its income is accumulated on or after the 1st day of April, 2001, the period of the accumulation of the amount exceeding twenty-five per cent of its income shall in no case exceed five years; and"

52. Substituted by the Finance Act, 1992, w.r.e.f. 1-4-1990.

53. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

54. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

55. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

56. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

57. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

58. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

59.Substituted for "1992" by the Finance Act, 1992, w.e.f. 1-4-1992. Earlier "1992" was substituted for "1990" by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

60. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

61. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1990.

62. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

63. Inserted by the Finance Act, 1998, w.e.f. 1-4-1999.

64. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

65. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

66. Substituted for "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" by the Taxation Laws (Amendment) Act, 2006, w.r.e.f. **1-4-2006.**

67. Inserted by the Taxation Laws (Amendment) Act, 2006, w.r.e.f. 1-4-2006.

68. Inserted by the Finance Act, 2007, w.e.f. 1-6-2007.

69. Inserted by the Taxation Laws (Amendment) Act, 2001, w.r.e.f. 3-2-2001.

70. Inserted by the Finance Act, 2002, w.r.e.f. 3-2-2001.

71. Substituted for "2003" by the Finance Act, 2003, w.r.e.f. 3-2-2001. Earlier "2003" was substituted for "2002" by the Finance Act, 2002, w.r.e.f. 3-2-2001.

72. Omitted by the Finance Act, 2002, w.e.f. 1-4-2002. Prior to its omission, the proviso, as inserted by the Finance Act, 2001, w.e.f. 1-4-2002, read as under :

"**Provided also** that where the total receipts of the fund or institution referred to in sub-clause (iv) or of any trust or institution referred to in sub-clause (v) or of any University or other educational institution referred to in sub-clause (vi) or of any hospital or other institution referred to in sub-clause (via) exceed one crore rupees in any preceding year, the fund or trust or institution or University or other educational institution or hospital or other institution, as the case may be, shall—

(i) publish its accounts in a local newspaper; and

(ii) furnish along with the application prescribed in the first proviso to this clause, the copy of the local newspaper in which such accounts have been published;"

73. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

74. Inserted by the Finance Act, 2007, w.e.f.**1-6-2007.**

75. Inserted by the Finance Act, 2006, w.e.f. 1-6-2006.

76. Inserted by the Finance Act, 2006, w.e.f. 1-4-2007.

77. Inserted by the Finance Act, 2007, w.e.f. 1-6-2007.

78. Inserted by the Finance Act, 2007, w.e.f. 1-4-2008.

79. Substituted vide Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2009, before it was read as, "made at any time during the financial year immediately preceding the assessment year"

Incomes not included in total income [Clause (23D) to Clause (43)]

[1]**[**(*23D*) [2]**[**[3]**[**[4]**[**subject to the provisions of Chapter XII-E, any income of**]—]**

(*i*) a Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder;

(*ii*) such other Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf.**]**

Explanation.—For the purposes of this clause,—

(*a*) the expression "public sector 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) [69]**[**and a bank included in the category 'other public sector banks' by the Reserve Bank of India**]**;

(*b*) the expression "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);**]**

[5]**[**(*c*) the expression "Securities and Exchange Board of India" shall have the meaning assigned to it in clause (*a*) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);**]**

(23E)[6]**[********]**

[7]**[**(*23EA*) any income [8]**[*,*** *by way of contributions received from recognised stock exchanges and the members thereof****,*]** of such Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax;**]**

[9]**[**(*23EB*)any income of the Credit Guarantee Fund Trust for Small [10]**[*******]** Industries, being a trust created by the Government of India and the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), for five previous years relevant to the assessment years beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2007;**]**

[67]**[***(*23EC*) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:*

Provided *that where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.***]**

Explanation.—*For the purposes of this clause, "commodity exchange" shall mean a "registered association" as defined in clause* (jj) *of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)****;*** **]**

[11]**[**(*23F*) any income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

Provided that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority in accordance with the rules made in this behalf and satisfies the prescribed conditions :

Provided further that any approval by the prescribed authority shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval :

[12]**[Provided also** that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.**]**

[13]**[*** * ***]**

[14]**[*** * ***]**

Explanation.—For the purposes of this clause,—

(*a*) "venture capital fund" means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(*b*) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and

[15]**[**(*c*) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf;

(*d*) "infrastructure facility" means a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;**]**

[16]**[**(*23FA*)any income by way of dividends [17]**[***,* other than dividends referred to in section 115-O**],** or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

Provided that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the rules made in this behalf and which satisfies the prescribed conditions :

Provided further that any approval by the Central Government shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval :

[18]**[Provided also** that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 2000**.]**

Explanation.—For the purposes of this clause,—

(*a*) "venture capital fund" means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(*b*)"venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and

(*c*) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(*i*) business of—

(*A*) software;

(*B*) information technology;

(*C*) production of basic drugs in the pharmaceutical sector;

(*D*) bio-technology;

(*E*) agriculture and allied sectors; or

(*F*) such other sectors as may be notified by the Central Government in this behalf; or (*ii*) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology**;]**

[19]**[**(*23FB*) any income of a venture capital company or venture capital fund [20]**[***set up to raise funds for investment***]** in a venture capital undertaking.

Explanation[21]**[*1*]*.***—For the purposes of this clause,—

(*a*)"venture capital company" means such company—

(*i*) which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and regulations made thereunder;

(*ii*) which fulfils the conditions as may be specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf;

(*b*) "venture capital fund" means such fund—

[22]**[**(*i*) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) or operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);**]**

(*ii*) which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and regulations made thereunder;

(*iii*) which fulfils the conditions as may be specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf; and**]**

[68]**[***(*c*) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—*

*(*i*) business of—*

*(*A*) nanotechnology;*

*(*B*) information technology relating to hardware and software development;*

*(*C*) seed research and development;*

*(*D*) bio-technology;*

*(*E*) research and development of new chemical entities in the pharmaceutical sector;*

*(*F*) production of bio-fuels;*

*(*G*) building and operating composite hotel-*cum*-convention centre with seating capacity of more than three thousand; or*

*(*H*) developing or operating and maintaining or developing, operating and maintaining any infrastructure facility as defined in the* Explanation *to clause (*i*) of sub-section (4) of section 80-IA; or***]**

(*ii*) dairy or poultry industry;

[24]**[*******]**

(*23G*) [25]**[*******]**

[26]**[**(*24*) any income chargeable under the heads "Income from house property" and "Income from other sources" of—

(*a*) a registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;

(*b*) an association of registered unions referred to in sub-clause (*a*);**]**

(*25*) (*i*) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities;

(*ii*) any income received by the trustees on behalf of a recognised provident fund;

(*iii*) any income received by the trustees on behalf of an approved superannuation fund;

[27]**[**(*iv*) any income received by the trustees on behalf of an approved gratuity fund;]

[28]**[**(*v*) any income received—

(*a*) by the Board of Trustees constituted under the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(*b*) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;**]**

[29][(*25A*) any income of the Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);**]**

[30][(*26*) in the case of a member of a Scheduled Tribe as defined in clause (*25*) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the [31][States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura**]** or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 **[**as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971)**]** [32][or in the Ladakh region of the State of Jammu and Kashmir**]**, any income which accrues or arises to him,—

(*a*) from any source in the areas [33][or States aforesaid**],** or

(*b*) by way of dividend or interest on securities**;]**

[34][(*26A*) any income accruing or arising to any person [35][* * ***]** from any source in the district of Ladakh or outside India in any previous year relevant to any assessment year commencing before the 1st day of April, [36][1989**]**, where such person is resident in the said district in that previous year :

Provided that this clause shall not apply in the case of any such person unless he was resident in that district in the previous year relevant to the assessment year commencing on the 1st day of April, 1962.

[37][***Explanation 1*].—**For the purposes of this clause, a person shall be deemed to be resident in the district of Ladakh if he fulfils the requirements of sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 6, as the case may be, subject to the modifications that—

(*i*) references in those sub-sections to India shall be construed as references to the said district; and

(*ii*) in clause (*i*) of sub-section (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir and having its registered office in that district in that year**.]**

[38][***Explanation 2.*—**In this clause, references to the district of Ladakh shall be construed as references to the areas comprised in the said district on the 30th day of June, 1979;**]**

(*26AA*) [39][* * ***]**

[63][(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

Explanation.—For the purposes of this clause, "Sikkimese" shall mean—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the "Register of Sikkim Subjects"), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/ 90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grandfather or brother from the same father has been recorded in that register;]

[64][(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;]

[40]**[**(*26B*) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the [41]**[**members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them**].**

[42]**[*Explanation.***—For the purposes of this clause,—

(*a*) Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (*24*) and (*25*) of article 366 of the Constitution;

(*b*) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified—

(*i*) by the Central Government; or

(*ii*) by any State Government, as the case may be, from time to time;**]**

[43]**[**(*26BB*) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

***Explanation**.*—For the purposes of this clause, "minority community" means a community notified as such by the Central Government in the Official Gazette in this behalf**;]**

[44]**[**(*26BBB*) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.

***Explanation**.*—For the purposes of this clause, "ex-serviceman" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation;**]**

[45]**[**(*27*) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (*26B*) :

Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;**]**

(*28*) [46]**[*** * ***]**

(*29*) [47]**[*****]**

[48]**[**(*29A*) any income accruing or arising to—

(*a*) the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(*b*) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(*c*) the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(*d*) the Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later;

(*e*) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later;

(*f*) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later;

(*g*) the Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 (10 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later;**]**

[65][(h) the Coir Board established under section 4 of the Coir Industry Act, 1953;]

[49]**[**(*30*) in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme for replantation or replacement of tea bushes [50]**[**or for rejuvenation or consolidation of areas used for cultivation of tea**]** as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the [51]**[**Assessing**]** Officers, along with his return of income for the assessment year concerned or within such further time as the [52]**[**Assessing**]** Officers may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);**]**

[53][(*31*) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the Assessing Officer, along with his return of income for the assessment year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, "concerned Board" means,—

(*i*) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947),

(*ii*) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942),

(*iii*) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986),

(*iv*) in relation to any other commodity specified under this clause, any Board or other authority established under any law for the time being in force which the Central Government may, by notification in the Official Gazette, specify in this behalf**;]**

[54][(*32*) in the case of an assessee referred to in sub-section (1A) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible**;]**

[55][(*33*) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002)and where the transfer of such asset takes place on or after the 1st day of April, 2002**;]**

[56][(*34*)any income by way of dividends referred to in section 115-O.

[57]**[*Explanation.*—**For the removal of doubts, it is hereby declared that the dividend referred to in section 115-O shall not be included in the total income of the assessee, being a Developer or entrepreneur**;]**

(*35*)any income by way of,—

(*a*) income received in respect of the units of a Mutual Fund specified under clause (*23D*); or

(*b*) income received in respect of units from the Administrator of the specified undertaking; or

(*c*) income received in respect of units from the specified company:

Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

Explanation.—For the purposes of this clause,—

(*a*) "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);

(*b*) "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);

(*36*)any income arising from the transfer of a long-term capital asset, being an eligible equity share in a company purchased on or after the 1st day of March, 2003 and before the 1st day of March, 2004 and held for a period of twelve months or more.

Explanation.—For the purposes of this clause, "eligible equity share" means,—

(*i*)any equity share in a company being a constituent of BSE-500 Index of the Stock Exchange, Mumbai as on the 1st day of March, 2003 and the transactions of purchase and sale of such equity share are entered into on a recognised stock exchange in India;

(*ii*) any equity share in a company allotted through a public issue on or after the 1st day of March, 2003 and listed in a recognised stock exchange in India before the 1st day of March, 2004 and the transaction of sale of such share is entered into on a recognised stock exchange in India**;]**

[58]**[**(*37*) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where—

(*i*) such land is situate in any area referred to in item (*a*) or item (*b*) of sub-clause (*iii*) of clause (*14*) of section 2;

(*ii*) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;

(*iii*) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India;

(*iv*) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.

Explanation.—For the purposes of this clause, the expression "compensation or consideration" includes the compensation or consideration enhanced or further enhanced by any court, Tribunal or other authority;

(*38*) any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund where—

(*a*) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force; and

(*b*) such transaction is chargeable to securities transaction tax under that Chapter :

[59]**[Provided** *that the income by way of long-term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB***.]**

Explanation.—For the purposes of this clause, "equity oriented fund" means a fund—

(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than [60]**[**sixty-five**]** per cent of the total proceeds of such fund; and

(*ii*) which has been set up under a scheme of a Mutual Fund specified under clause (*23D*) :

Provided that the percentage of equity shareholding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;**]**

[61]**[**(*39*) any specified income, arising from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(*a*) is approved by the international body regulating the international sport relating to such event;

(*b*) has participation by more than two countries;

(*c*) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, "the specified income" means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf;

(*40*) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation:

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (*a*) of clause (*v*) of sub-section (4) of section 80-IA;

(*41*) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power where such transfer is effected on or before the 31st day of March, 2006, to the Indian company notified under sub-clause (*a*) of clause (*v*) of sub-section (4) of section 80-IA;**]**

[62]**[**(*42*) any specified income arising to a body or authority which—

(*a*) has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government;

(*b*) is established or constituted or appointed not for the purposes of profit;

(*c*) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, "specified income" means the income, of the nature and to the extent, arising to the body or authority referred to in this clause, which the Central Government may notify in this behalf.**]**

[66][(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47.]

[70]**[**(44) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882.**]**

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Notes :-

1. Inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

2. Substituted for the portion beginning with the words "any income of such Mutual Fund" and ending with the words "specify in this behalf" by the Finance Act, 1995, w.e.f. 1-7-1995. Prior to substitution, the said portion, as amended by the Finance Act, 1988, w.e.f. 1-4-1988, the Direct Tax Laws (Amendment) Act, 1989, w.r.e.f. 1-4-1988 and the Finance Act, 1992, w.e.f. 1-4-1993, read as under :

"any income of such Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Securities and Exchange Board of India or the Reserve Bank of India and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf."

3. Substituted for "any income of—" by the Finance Act, 1999, w.e.f. 1-4-2000.

4. Substituted for "any income of" by the Finance Act, 2003, w.e.f. 1-4-2004. Earlier the words "subject to the provisions of Chapter XII-E," were omitted by the Finance Act, 2002, w.e.f. 1-4-2003.

5. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

6. *Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*Prior to its omission, clause (23E), as inserted by the Finance Act, 1989, w.e.f. 1-4-1989, read as under :

'(23E)   any income of such Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a public financial institution, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

Explanation.—For the purposes of this clause, the expression "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);'

7. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

8. Inserted by the Finance Act, 2006, w.e.f.**1-4-2007.**

9. Inserted by the Finance Act, 2002, w.e.f. 1-4-2002.

10. Word "Scale" omitted by the Finance Act, 2003, w.r.e.f. 1-4-2002.

11. Inserted by the Finance Act, 1995, w.e.f. 1-4-1996.

12. Inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

13. Third and fourth provisos omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to their omission, the third and fourth provisos, as inserted by the Finance Act, 1995, w.e.f. 1-4-1996, read as under :

"Provided also that if the aforesaid equity shares are transferred (other than in the event of the said shares being listed in a recognised stock exchange in India) by a venture capital fund or a venture capital company to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of income by way of dividends on such equity shares which has not been included in the total income of the previous year or years preceding the previous year in which such transfer has taken place shall be deemed to be the income of the venture capital fund or of the venture capital company of the previous year in which such transfer has taken place:

Provided also that the exemption shall not be allowed in respect of the long-term capital gains, if any, arising on such transfer of equity shares as is mentioned in the third proviso."

14. Third and fourth provisos omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to their omission, the third and fourth provisos, as inserted by the Finance Act, 1995, w.e.f. 1-4-1996, read as under **:**

"Provided also that if the aforesaid equity shares are transferred (other than in the event of the said shares being listed in a recognised stock exchange in India) by a venture capital fund or a venture capital company to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of income by way of dividends on such equity shares which has not been included in the total income of the previous year or years preceding the previous year in which such transfer has taken place shall be deemed to be the income of the venture capital fund or of the venture capital company of the previous year in which such transfer has taken place:

Provided also that the exemption shall not be allowed in respect of the long-term capital gains, if any, arising on such transfer of equity shares as is mentioned in the third proviso."

15. Clauses (c) and (d) substituted for clause (c) by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999. Prior to substitution, clause (c), as amended by the Finance Act, 1997, w.e.f. 1-4-1998, read as under :

'(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or business of providing telecommunication services or in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf;'

16. Inserted by the Finance Act, 1999, w.e.f. 1-4-2000.

17. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004. Earlier, it was omitted by the Finance Act, 2002, w.e.f. 1-4-2003.

18. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

19. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

20. Words "from investment" shall be substituted for "set up to raise funds for investment" by the Finance Act, 2007, w.e.f. 1-4-2008.

21. ***Explanation*** numbered as ***Explanation 1*** by the Finance Act, 2001, w.e.f. 1-4-2001.

22. Substituted by the Finance Act, 2001, w.e.f. 1-4-2001. Prior to its substitution, sub-clause (i) read as under :

"(i) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908);"

23. Substituted by the Finance (No. 2) Act, 2004, w.e.f. 1-10-2004. Prior to its substitution, clause (c) of Explanation 1 read as under :

'(c) "venture capital undertaking" means a domestic company—

(i) whose shares are not listed in a recognised stock exchange in India;

(ii) which is engaged in the business for providing services, production or manufacture of an article or thing but does not include such activities or sectors which are specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf.'

24. Omitted by the Finance (No. 2) Act, 2004, w.e.f. 1-10-2004. Prior to its omission, Explanation 2, as inserted by the Finance Act, 2001, w.e.f. 1-4-2001, read as under :

***"Explanation 2.*—**For the removal of doubts it is hereby declared that the income of a venture capital company or venture capital fund shall continue to be exempt if the shares of the venture capital undertaking, in which the venture capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock exchange in India;"

25. *Omitted by the Finance Act, 2006, w.e.f.* 1-4-2007*;* Prior to its omission, clause (23G), as inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997 and later on amended by the Finance Act, 1997, w.e.f. 1-4-1998, substituted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999 and further amended by the Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999, Finance Act, 1999, w.e.f. 1-4-2000, Finance Act, 2000, w.e.f. 1-4-2000/1-4-2001, Finance Act, 2001, w.e.f. 1-4-2002, Finance Act, 2002, w.e.f. 1-4-2003, Finance Act, 2003, w.e.f. 1-4-2004/w.r.e.f. 1-4-2002, Finance (No. 2) Act, 2004, w.e.f. 1-4-2005, and Special Economic Zones Act, 2005, w.e.f. 10-2-2006, read as under :

'*(23G) any income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company or a co-operative bank from investments made on or after the 1st day of June, 1998 by way of shares or long-term finance in any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or sub-section (3) of section 80-IAB or a housing project referred to in sub-section (10) of section 80-IB or a hotel project or a hospital project and which has been approved† by the Central Government on an application made by it in accordance with the rules made in this behalf and which satisfies the prescribed conditions :

Provided that the income, by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital company, shall be taken into account in computing the book profit and income-tax payable under section 115JB.

***Explanation 1.*—**For the purposes of this clause,—

(a) "infrastructure capital company" means such company as has made investments by way of acquiring shares or providing long term finance to an enterprise wholly engaged in the business referred to in this clause;

(b) "infrastructure capital fund" means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business referred to in this clause;

(c) **[***]**

(d) "long-term finance" shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;

(e) "co-operative bank" shall have the meaning assigned to it in clause (dd) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961);

(f) "interest" includes any fee or commission received by a financial institution for giving any guarantee to, or enhancing credit in respect of, an enterprise which has been approved by the Central Government for the purposes of this clause;

(g) "hotel project" means a project for constructing a hotel of not less than three-star category as classified by the Central Government;

(h) "hospital project" means a project for constructing a hospital with at least one hundred beds for patients.

***Explanation 2.*—**For the removal of doubts, it is hereby declared that any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made before the 1st day of June, 1998 by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility shall not be included and the provisions of this clause as it stood immediately before its amendment by the Finance (No. 2) Act, 1998 (21 of 1998) shall apply to such income;'

26. Substituted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997. Prior to its substitution, clause (24), as amended by the Finance Act, 1988, w.e.f. 1-4-1989, read as under :

'(24) any income chargeable under the heads "Income from house property" and "Income from other sources" of a registered union within the meaning of the Indian Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;'

27. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

28. Inserted by the Labour Provident Fund Laws (Amendment) Act, 1976, w.e.f. 1-8-1976.

29. Inserted by the Finance Act, 1995, w.r.e.f. 1-4-1962.

30. Substituted by the North-Eastern Areas (Reorganisation) (Adaptation of Laws on Union Subjects) Order, 1974, with retrospective effect from 21-1-1972. Earlier, clause (26) was amended first by the State of Nagaland (Adaptation of Laws on Union Subjects) Order, 1965, with retrospective effect from 1-12-1963 and then by the Taxation Laws (Amendment) Act, 1970, with retrospective effect from 1-4-1962.

31. Substituted for "States of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram" by the Finance Act, 1994, w.e.f. 1-4-1995.

32. Inserted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999.

33. Substituted for ", States or Union territories aforesaid" by the Finance Act, 1994, w.e.f. 1-4-1995.

34. Inserted by the Finance (No. 2) Act, 1965, w.r.e.f. 1-4-1962.

35. "(not being an individual who is in the service of Government)" omitted by the Finance (No. 2) Act, 1971, w.r.e.f. 1-4-1962.

36. Substituted for "1986" by the Finance Act, 1985, w.e.f. 1-4-1985. Earlier "1986" was substituted for "1983" by the Finance Act, 1983, w.e.f. 1-4-1983, "1983" was substituted for "1980" by the Finance Act, 1980, w.e.f. 1-4-1980, "1980" was substituted for "1975" by the Finance (No. 2) Act, 1977, with retrospective effect from 1-4-1975 and "1975" was substituted for "1970" by the Finance (No. 2) Act, 1971, w.r.e.f. 1-4-1970.

37. Existing ***Explanation*** renumbered as ***Explanation 1*** by the Finance Act, 1983, w.r.e.f. 1-4-1980.

38. Inserted by the Finance Act, 1983, w.r.e.f. 1-4-1980.

39. Omitted by the Finance Act, 1997, w.e.f. 1-4-1998. Prior to its omission, clause (26AA), as inserted by the Finance Act, 1989, w.e.f. 1-4-1990, read as under :

"(26AA) any income of a person by way of winnings from any lottery, the draw of which is held in pursuance of any agreement entered into on or before the 28th day of February, 1989 between the State Government of Sikkim and the organising agents of such lottery, where such person is resident in the State of Sikkim in any previous year.

Explanation.—For the purposes of this clause, a person shall be deemed to be resident in the State of Sikkim if he fulfils the requirements of clause (1) or clause (2) or clause (3) or clause (4) of section 6, as the case may be, subject to the modifications that—

(i) references in those clauses to India shall be construed as references to the State of Sikkim; and

(ii) in sub-clause (i) of clause (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Sikkim and having its registered office in that State in that year;"

40. Inserted by the Finance Act, 1980, w.r.e.f. 1-4-1972.

41. Substituted for "members of either the Scheduled Castes or the Scheduled Tribes or of both" by the Finance Act, 1994, w.r.e.f. 1-4-1993.

42. Substituted by the Finance Act, 1994, w.r.e.f. 1-4-1993. Earlier ***Explanation***, as inserted by the Finance Act, 1980, w.r.e.f. 1-4-1972, read as under :

'***Explanation***.—For the purposes of this clause, "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution;'

43. Inserted by the Finance Act, 1995, w.e.f. 1-4-1995.

44. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

45. Inserted by the Finance Act, 1992, w.r.e.f. 1-4-1989. Earlier clause (*27*) was omitted by the Finance Act, 1975, w.e.f. 1-4-1976 and re-enacted in section 80JJ with modification. Originally, clause (*27*) was inserted by the Finance Act, 1964, w.e.f. 1-4-1964 and later on amended by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1967.

46. Omitted by the Finance Act, 1997, w.e.f. 1-4-1998. Prior to its omission, clause (28) was inserted by the Finance Act, 1965, w.e.f. 1-4-1965 and substituted by the Finance (No. 2) Act, 1965, w.e.f. 11-9-1965.

47. *Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*Prior to its omission, clause (29), as inserted by the Finance (No. 2) Act, 1967, w.e.f. 1-4-1968, read as under :

"(29) in the case of an authority constituted under any law for the time being in force for the marketing of commodities, any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities;"

48. Inserted by the Finance Act, 1999, w.e.f. 11-5-1999.

49. Inserted by the Taxation Laws (Amendment) Act, 1970, w.r.e.f. 1-4-1969.

50. Inserted by the Finance Act, 1984, w.e.f. 1-4-1985.

51. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

52. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

53. Inserted by the Finance Act, 1988, w.e.f. 1-4-1989.

54. Inserted by the Finance Act, 1992, w.e.f. 1-4-1993.

55. Inserted by the Finance Act, 2003, w.e.f. 1-4-2003. Earlier clause (33) was inserted by the Finance Act, 1997, w.e.f. 1-4-1998, substituted by the Finance Act, 1999, w.e.f. 1-4-2000, amended by the Finance Act, 2001, w.r.e.f. 1-4-2000 and later on omitted by the Finance Act, 2002, w.e.f. 1-4-2003. Prior to omission, clause (33) read as under :

"(33) any income by way of—

(i) dividends referred to in section 115-O; or

(ii) income received in respect of units from the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963); or

(iii) income received in respect of the units of a mutual fund specified under clause (23D) :

Provided that this clause shall not apply to any income arising from transfer of units of the Unit Trust of India or of a mutual fund, as the case may be."

56. Clauses (34), (35) and (36) inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

57. Inserted by the Special Economic Zones Act, 2005, w.e.f. 10-2-2006.

58. Clauses (37) and (38) inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-4-2005.

59. Inserted by the Finance Act, 2006, w.e.f. 1-4-2007.

60. Substituted for "fifty" by the Finance Act, 2006, w.e.f. 1-6-2006.

61. Clauses (39) to (41) inserted by the Taxation Laws (Amendment) Act, 2005, w.e.f. 1-4-2006.

62. Inserted by the Finance Act, 2006, w.e.f. 1-4-2006.

63. Inserted by the Finance Act, 2008, w.e.f. 1-4-1990.

64. Inserted by the Finance Act, 2008, w.e.f. 1-4-2009.

65. Inserted by the Finance Act, 2008, w.e.f. 1-4-2002.

66. Inserted by the Finance Act, 2008, w.e.f. 1-4-2008.

67. Inserted by the Finance Act, 2007, w.e.f. 1-4-2008.

68. Substituted by the Finance Act, 2007, w.e.f. 1-4-2008. Prior to substitution it was read as under:

"[23]**[**(*c*)"venture capital undertaking" means a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and notified as such in the Official Gazette by the Board for the purposes of this clause**;]"**

69. Inserted vide Finance (No. 2) Act, 2009 w.e.f. 1-4-2010

70 Inserted vide Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2009

[Special provision in respect of newly established undertakings in free trade zone, etc.

10A. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to deduction referred to in this sub-section only for the unexpired period of the aforesaid ten consecutive assessment years :

Provided further that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the period of ten consecutive assessment years referred to in this sub-section shall be reckoned from the assessment year relevant to the previous year in which the [2]**[**undertaking began to manufacture or produce such articles or things or computer software] in such free trade zone or export processing zone :

[3]**[Provided also** that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software **:]**

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, [19]**[**2012**]** and subsequent years.

[4]**[**(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,—

(*i*)hundred per cent of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent of such profits and gains for further two consecutive assessment years, and thereafter;

(*ii*) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Allowance Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (1B) :

[5]**[Provided** that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.**]**

(1B) The deduction under clause (*ii*) of sub-section (1A) shall be allowed only if the following conditions are fulfilled, namely:—

(*a*) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised—

(*i*)for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created; and

(*ii*)until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(*b*) the particulars, as may be prescribed in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(1C) Where any amount credited to the Special Economic Zone Re-investment Allowance Reserve Account under clause (*ii*) of sub-section (1A),—

(*a*)has been utilised for any purpose other than those referred to in sub-section (1B), the amount so utilised; or

(*b*)has not been utilised before the expiry of the period specified in sub-clause (*i*) of clause (*a*) of sub-section (1B), the amount not so utilised,

shall be deemed to be the profits,—

(*i*) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or (*ii*) in a case referred to in clause (*b*), in the year immediately following the period of three years specified in sub-clause (*i*) of clause (*a*) of sub-section (1B), and shall be charged to tax accordingly.**]**

(2) This section applies to any undertaking which fulfils all the following conditions, namely :—

(*i*) it has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year—

(*a*) commencing on or after the 1st day of April, 1981, in any free trade zone; or

(*b*) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park, or, as the case may be, software technology park;

(*c*) commencing on or after the 1st day of April, 2001 in any special economic zone;

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertakings as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*iii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of ***Explanation 1*** **and** ***Explanation 2*** to sub-section (2) of section 80-I shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1.**—**For the purposes of this sub-section, the expression "competent authority" means 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.

Explanation 2.**—**The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

[6]**[**(4) For the purposes of [7]**[**sub-sections (1) and (1A)**],** the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.**]**

(5) The deduction under [8]**[**this section**]** shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, alongwith the return of income, the report of an accountant, as defined in the ***Explanation***below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(*i*) section 32, section 32A, section 33, section 35 and clause (*ix*) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years [9]**[**ending before the 1st day of April, 2001**],** in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (*ii*) of sub-section (3) of section 32A, clause (*ii*) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (*ix*) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(*ii*) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years [10]**[**ending before the 1st day of April, 2001**];**

(*iii*) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

[11]**[**(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.**]**

[12]**[**(7B) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (*zc*) of section 2 of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.**]**

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

(*9*) [13]**[*******]**

(*9A*) [14]**[*******]**

Explanation 1.—[15]**[*******]**

Explanation 2.—For the purposes of this section,—

(*i*) "computer software" means—

(*a*) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(*b*) any customized electronic data or any product or service of similar nature, as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

(*ii*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder or any other corresponding law for the time being in force;

(*iii*) "electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(*iv*) "export turnover" means the consideration in respect of export [16]**[**by the undertaking**]** of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(*v*) "free trade zone" means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(*vi*) "relevant assessment year" means any assessment year falling within a period of ten consecutive assessment years referred to in this section;

(*vii*) "software technology park" means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(*viii*) "special economic zone" means a zone which the Central Government may, by notification in the Official Gazette, specify as a special economic zone for the purposes of this section.**]**

[17]**[*Explanation 3.*—**For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.**]**

[18]**[*Explanation 4.*—**For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.**]**

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Notes :-

1. Substituted by the Finance Act, 2000, w.e.f. 1-4-2001. Prior to its substitution, section 10A was inserted by the Finance Act, 1981, w.e.f. 1-4-1981, and later on amended by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 1-4-1987, Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988/1-4-1989, Finance Act, 1987, w.r.e.f. 1-4-1981/w.e.f. 1-4-1988, Finance Act, 1988, w.e.f. 1-4-1989, Finance Act, 1993, w.e.f. 1-4-1994/w.r.e.f. 1-4-1991, Finance Act, 1995, w.e.f. 1-4-1996, Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999 and Finance Act, 1999, w.e.f. 1-4-2000.

2. Substituted for "undertaking was first set up" by the Finance Act, 2001, w.e.f. 1-4-2001.

3. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003. Earlier the third proviso was omitted by the Finance Act, 2001, w.e.f. 1-4-2002. Prior to omission, third proviso read as under :

"Provided also that the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent of total sales shall be deemed to be the profits and gains derived from the export of articles or things or computer software:"

4. Sub-sections (1A) to (1C) substituted for sub-section (1A) by the Finance Act, 2003, w.e.f. 1-4-2004. Prior to its substitution, sub-section (1A), as inserted by the Finance Act, 2002, w.e.f. 1-4-2003, read as under :

"(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be hundred per cent of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent of such profits and gains for further two assessment years."

5. Inserted by the Finance Act, 2005, w.e.f. 1-4-2006.

6. Substituted by the Finance Act, 2001, w.e.f. 1-4-2001. Prior to its substitution, sub-section (4) read as under :

"(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee."

7. Substituted for "sub-section (1)" by the Finance Act, 2003, w.e.f. 1-4-2003.

8. Substituted for "sub-section (1)" by the Finance Act, 2003, w.e.f. 1-4-2003.

9. Inserted by the Finance Act, 2003, w.r.e.f. 1-4-2001.

10. Inserted by the Finance Act, 2003, w.r.e.f. 1-4-2001.

11. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

12. Inserted by the Special Economic Zones Act, 2005, w.e.f. 10-2-2006.

13. Omitted by the Finance Act, 2003, w.e.f. 1-4-2004. Prior to its omission, sub-section (9) read as under :

"(9) Where during any previous year, the ownership or the beneficial interest in the undertaking is transferred by any means, the deduction under sub-section (1) shall not be allowed to the assessee for the assessment year relevant to such previous year and the subsequent years."

14. *Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.*

Prior to its omission, sub-section (9A), as inserted by the Finance Act, 2002, w.e.f. 1-4-2003, read as under :

"(9A) Notwithstanding anything contained in sub-section (9), where as a result of reorganisation of business, a firm or a sole proprietary concern is succeeded by a company and the ownership or beneficial interest in the undertaking of the firm or the sole proprietary concern is transferred to the company, the deduction under sub-section (1) in respect of such undertaking shall be allowed to the company, as the same would have been allowed to such firm or sole proprietary concern, as the case may be, if the reorganisation had not taken place:

Provided that,—

(a) in the case of a firm, the aggregate of the shareholding in the company of the partners of the firm is not less than fifty-one per cent of the total voting power in the company and their shareholding continues to be as such for the period for which the company is eligible for deduction under this section;

(b) in the case of a sole proprietary concern, the shareholding of the sole proprietor in the company is not less than fifty-one per cent of the total voting power in the company and his shareholding continues to remain as such for the period for which the company is eligible for deduction under this section."

15. *Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.*

Prior to its omission, Explanation 1, as amended by the Finance Act, 2001, w.e.f. 1-4-2001, read as under :

"Explanation 1.—For the purposes of this section, in the case of a company, where on the last day of any previous year, the shares of the company carrying not less than fifty-one per cent of the voting power are not beneficially held by persons who held the shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year in which the undertaking was set up, the company shall be presumed to have transferred its ownership or the beneficial interest in the undertaking :

Provided that nothing contained in this Explanation shall apply to any change in the shareholding of the company as a result of—

(a) its becoming a company in which the public are substantially interested; or

(b) disinvestment of its equity shares by any venture capital company or venture capital fund."

16. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

17. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

18. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

19. Substituted for "2010" by the Finance Act, 2008, w.e.f. 1-4-2008. Further Substituted for "2011" vide Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2009

[1][Special provisions in respect of newly established Units in Special Economic Zones.

10AA. (1) Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (*j*) of section 2 of the Special Economic Zones Act, 2005, from his Unit, who begins to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2006, a deduction of—

(*i*) hundred per cent of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and fifty per cent of such profits and gains for further five assessment years and thereafter;

(*ii*) for the next five consecutive assessment years, so much of the amount not exceeding fifty per cent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Reserve Account") to be created and utilized for the purposes of the business of the assessee in the manner laid down in sub-section (2).

(2) The deduction under clause (*ii*) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :—

(*a*) the amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised—

(*i*) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and

(*ii*) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(*b*) the particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under clause (*b*) of sub-section (1B) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(3) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (*ii*) of sub-section (1),—

(*a*) has been utilised for any purpose other than those referred to in sub-section (2), the amount so utilised; or

(*b*) has not been utilised before the expiry of the period specified in sub-clause (*i*) of clause (*a*) of sub-section (2), the amount not so utilised,

shall be deemed to be the profits,—

(*i*) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or

(*ii*) in a case referred to in clause (*b*), in the year immediately following the period of three years specified in sub-clause (*i*) of clause (*a*) of sub-section (2), and shall be charged to tax accordingly :

Provided that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (*ii*) of sub-section (1).

Explanation.—For the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section :

Provided further that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone :

Provided also that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (*ii*) of sub-section (1) with effect from the 1st day of April, 2006.

[2]**[***(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—*

(i*) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;*

(ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence:*

Provided *that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;*

(iii*) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.*

*Explanation.—The provisions of Explanations 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section***.]**

(5) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged Unit, being the company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger had not taken place.

(6) Loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.

(7) For the purposes of sub-section (1), the profits derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on [3]**[**by the undertaking**]**.

(8) The provisions of sub-sections (5) and (6) of section 10A shall apply to the articles or things or services referred to in sub-section (1) as if—

(*a*) for the figures, letters and word "1st April, 2001", the figures, letters and word "1st April, 2006" had been substituted;

(*b*) for the word "undertaking", the words "undertaking, being the Unit" had been substituted.

(9) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

***Explanation 1.*—**For the purposes of this section,—

(*i*) "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

(*ii*) "export in relation to the Special Economic Zones" means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

(*iii*) "manufacture" shall have the same meaning as assigned to it in clause (*r*) of section 2 of the Special Economic Zones Act, 2005;

(*iv*) "relevant assessment year" means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section;

(*v*) "Special Economic Zone" and "Unit" shall have the same meanings as assigned to them under clauses (*za*) and (*zc*) of section 2 of the Special Economic Zones Act, 2005.

***Explanation 2.*—**For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.**]**

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Notes :-

1. Inserted by the Special Economic Zones Act, 2005, w.e.f. 10-2-2006.

2. Substituted by the Finance Act, 2007, w.r.e.f.**10-2-2006.** Prior to its substitution, sub-section (4) read as under :

"(4) This section applies to any undertaking being the Unit, which has begun or begins to manufacture or produce articles or things or services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006, in any Special Economic Zone."

3. Substituted vide Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2009, before it was read as, "by the assessee"

[1][Special provisions in respect of newly established hundred per cent export-oriented undertakings.

10B. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years :

[2]**[Provided** [3]**[further]** that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software**:]**

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, [15]**[**2012**]** and subsequent years :

[4]**[Provided also** that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139**.]**

(2) This section applies to any undertaking which fulfils all the following conditions, namely :—

(*i*) it manufactures or produces any articles or things or computer software;

(*ii*) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(*iii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of ***Explanation 1* and *Explanation 2*** to sub- section (2) of section 80-I shall apply for the purposes of clause (*iii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

***Explanation 1.*—**For the purposes of this sub-section, the expression "competent authority" means 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.

***Explanation 2.*—**The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

[5]**[**(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.**]**

(5) The deduction under sub-section (1) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the ***Explanation***below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(*i*) section 32, section 32A, section 33, section 35 and clause (*ix*) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years [6]**[**ending before the 1st day of April, 2001**]**, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (*ii*) of sub-section (3) of section 32A, clause (*ii*) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (*ix*) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(*ii*) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years [7]**[**ending before the 1st day of April, 2001**];**

(*iii*) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

[8]**[**(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or the demerger had not taken place**.]**

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment year.

(9) [9]**[*******]**

(9A) [10]**[*******]**

***Explanation 1.*—**[11]**[*******]**

***Explanation 2.*—**For the purposes of this section,—

(*i*) "computer software" means—

(*a*) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(*b*) any customized electronic data or any product or service of similar nature as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

(*ii*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder or any other corresponding law for the time being in force;

(*iii*) "export turnover" means the consideration in respect of export [12]**[**by the undertaking**]** of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(*iv*) "hundred per cent export-oriented undertaking" means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

(*v*) "relevant assessment years" means any assessment years falling within a period of ten consecutive assessment years, referred to in this section.**]**

[13]**[*Explanation 3.*—**For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.**]**

[14]**[*Explanation 4.*—**For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.**]**

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Notes :-

1. Substituted by the Finance Act, 2000, w.e.f. 1-4-2001. Prior to its substitution, section 10B, as inserted by the Finance Act, 1988, w.e.f. 1-4-1989 and later on amended by the Finance Act, 1993, w.r.e.f. 1-4-1991, Finance Act, 1994, w.e.f. 1-4-1994/1-4-1995, Income-tax (Second Amendment) Act, 1998, w.e.f. 1-4-1999 and Finance Act, 1999, w.e.f. 1-4-2000, read as under :

'10B. Special provision in respect of newly established hundred per cent export-oriented undertakings.—(1) Subject to the provisions of this section, any profits and gains derived by an assessee from a hundred per cent export-oriented undertaking (hereafter in this section referred to as the undertaking) to which this section applies shall not be included in the total income of the assessee.

(2) This section applies to any undertaking which fulfils all the following conditions, namely :—

(i) it manufactures or produces any article or thing;

(ia) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day of April, 1994, its exports of such articles and things are not less than seventy-five per cent of the total sales thereof during the previous year;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of Explanation 1 and Explanation 2 to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of any ten consecutive assessment years, beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year

immediately succeeding the last of the relevant assessment years, or of any previous year relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) Where the undertaking has begun to manufacture or produce articles or things in any previous year relevant to the assessment year commencing before the 1st day of April, 1989, the assessee may, at his option, before the due date for furnishing the return of his income under sub-section (1) of section 139 for the assessment year commencing on the 1st day of April, 1989, furnish to the Assessing Officer a declaration in writing that the provisions of sub-section (1) may be made applicable to him for any five consecutive assessment years falling within a period of eight years beginning with the assessment year commencing on the 1st day of April, 1989, and if he does so, then, the provisions of sub-section (1) shall apply to him for each of such assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of such assessment years and any subsequent assessment year.

(6) The provisions of sub-section (8) and sub-section (9) of section 80-I shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-I.

(7) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

Explanation.— For the purposes of this section,—

(i) "hundred per cent export-oriented undertaking" means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

(ii) "relevant assessment years" means the ten consecutive assessment years referred to in sub-section (3);

(iii) "manufacture" includes any—

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device;

(iv) "produce", in relation to any article or thing referred to in clause (i) of sub-section (2) includes production of computer programmes.'

2. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003. Earlier the second proviso was omitted by the Finance Act, 2001, w.e.f. 1-4-2002. Prior to omission, it read as under :

"Provided further that the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent of the total sales shall be deemed to be the profits and gains derived from the export of articles or things or computer software:"

3. Substituted for "also" by the Finance Act, 2006, w.e.f. 1-4-2006.

4. Inserted, by the Finance Act, 2006, w.e.f. 1-4-2006.

5. Substituted by the Finance Act, 2001, w.e.f. 1-4-2001. Prior to its substitution, sub-section (4) read as under :

"(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee."

6. Inserted by the Finance Act, 2003, w.r.e.f. 1-4-2001.

7. Inserted by the Finance Act, 2003, w.r.e.f. 1-4-2001.

8. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

9. Omitted by the Finance Act, 2003, w.e.f. 1-4-2004. Prior to its omission, sub-section (9) read as under :

"(9) Where during any previous year, the ownership or the beneficial interest in the undertaking is transferred by any means, the deduction under sub-section (1) shall not be allowed to the assessee for the assessment year relevant to such previous year and the subsequent years."

10. Omitted by the Finance Act, 2003, w.e.f. 1-4-2004. Prior to its omission, sub-section (9A), as inserted by the Finance Act, 2002, w.e.f. 1-4-2003, read as under :

"(9A) Notwithstanding anything contained in sub-section (9), where as a result of reorganisation of business, a firm or a sole proprietary concern is succeeded by a company and the ownership or beneficial interest in the undertaking of the firm or the sole proprietary concern is transferred to the company, the deduction under sub-section (1) in respect of such undertaking shall be allowed to the company, as the same would have been allowed to such firm or sole proprietary concern, as the case may be, if the reorganisation had not taken place:

Provided that,—

(a) in the case of a firm, the aggregate of the shareholding in the company of the partners of the firm is not less than fifty-one per cent of the total voting power in the company and their shareholding continues to be as such for the period for which the company is eligible for deduction under this section;

(b) in the case of a sole proprietary concern, the shareholding of the sole proprietor in the company is not less than fifty-one per cent of the total voting power in the company and his shareholding continues to remain as such for the period for which the company is **eligible for deduction under this section."**

11. *Omitted by the Finance Act, 2003, w.e.f. 1-4-2004*. Prior to its omission, Explanation 1, as amended by the Finance Act, 2001, w.e.f. 1-4-2001, read as under :

"***Explanation 1.—***For the purposes of this section, in the case of a company, where on the last day of any previous year, the shares of the company carrying not less than fifty-one per cent of the voting power are not beneficially held by persons who held the shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year in which the undertaking was set up, the company shall be presumed to have transferred its ownership or the beneficial interest in the undertaking :

Provided that nothing contained in this Explanation shall apply to any change in the shareholding of the company as a result of—

(a) its becoming a company in which the public are substantially interested; or

(b) disinvestment of its equity shares by any venture capital company or venture capital fund."

12. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

13. Inserted by the Finance Act, 2001, w.e.f. 1-4-2001.

14. Inserted by the Finance Act, 2003, w.e.f. 1-4-2004.

15. Substituted for "2010" by the Finance Act, 2008, w.e.f. 1-4-2008, Further Substituted for "2011" Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2009

[1][Special provisions in respect of export of certain articles or things.

10BA. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section :

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils the following conditions, namely :—

(*a*) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(*b*) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*c*)it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of ***Explanation 1*** **and** ***Explanation 2*** to sub-section (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (*ii*) of sub-section (2) of that section;

(*d*)ninety per cent or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(*e*) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation*.*—For the purposes of this sub-section, the expression "competent authority" means 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.

(4)For the purposes of sub-section (1), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(5)The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6)Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7)The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation*.*—For the purposes of this section,—

(*a*) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(*b*) "eligible articles or things" means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;

(*c*) "export turnover" means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(*d*) "export out of India" shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962 (52 of 1962).**]**

[1][Meaning of computer programmes in certain cases.

10BB. The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000 (10 of 2000), shall be construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.**]**

[1][Special provision in respect of certain industrial undertakings in North- Eastern Region.

10C. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region (hereafter in this section referred to as the industrial undertaking) shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :—

(*i*) it is not formed by the splitting up, or the reconstruction of, a business already in existence :

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of ***Explanation 1* and *Explanation 2***to sub-section (3) of section 80-IA shall apply for the purposes of clause (*ii*) of this sub-section as they apply for the purposes of clause (*ii*) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year,—

(*i*) section 32, section 35 and clause (*ix*) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (*ix*) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction;

(*ii*) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(*iii*) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80-IB, as the case may be.

(6) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years :

[2]**[Provided** that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.**]**

Explanation.—For the purposes of this section,—

(*i*) "Integrated Infrastructure Development Centre" means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section;

(*ii*) "Industrial Growth Centre" means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(*iii*) "North-Eastern Region" means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(*iv*) "relevant assessment years" means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.**]**

[1]Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

[2]**[**(*a*) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of [3]**[**fifteen**]** per cent of the income from such property;

(*b*) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of [4]**[**fifteen**]** per cent of the income from such property;

(*c*) income [5]**[**derived**]** from property held under trust—

(*i*) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(*ii*) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

[6]**[**(*d*) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution.**]**

[7]**[*Explanation.*—**For the purposes of clauses (*a*) and (*b*),—

(*1*) in computing the [8]**[**fifteen**]** per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(*2*) if, in the previous year, the income applied to charitable or religious purposes in India falls short of [9]**[**eighty-five**]** per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(*i*) for the reason that the whole or any part of the income has not been received during that year, or (*ii*) for any other reason,

then—

(*a*) in the case referred to in sub-clause (*i*), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(*b*) in the case referred to in sub-clause (*ii*), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised in writing before the expiry of the time allowed under sub-section (1) [10]**[*** * ***]** of section 139 [11]**[*** * ***]** for furnishing the return of income) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (*i*), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (*ii*), during the previous year immediately following the previous year in which the income was derived**.]**

[12]**[**(1A) For the purposes of sub-section (1),—

(*a*) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain ;

(*ii*) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(*b*) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(*i*) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(*ii*) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(*i*) "appropriate fraction" means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(*ii*) "cost of the transferred asset" means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (*b*) of clause (*1*) of section 55;

(*iii*) "net consideration" means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.**]**

[13]**[**(1B) Where any income in respect of which an option is exercised under clause (*2*) of the ***Explanation*** to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (*a*) or, as the case may be, sub-clause (*b*), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(*a*) in the case referred to in sub-clause (*i*) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(*b*) in the case referred to in sub-clause (*ii*) of the said clause, of the previous year immediately following the previous year in which the income was derived.**]**

[14]**[**(2) [15]**[**Where [16]**[**eighty-five**]** per cent of the income referred to in clause (*a*) or clause (*b*) of sub-section (1) read with the ***Explanation*** to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely**:—]**

(*a*) such person specifies, by notice in writing given to the [17]**[**Assessing**]** Officer in the prescribed manner, the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;

[18]**[**(*b*) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5)**]:]**

[19]**[Provided** that in computing the period of ten years referred to in clause (*a*), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded**:]**

[20]**[Provided further** that in respect of any income accumulated or set apart on or after the 1st day of April, 2001, the provisions of this sub-section shall have effect as if for the words "ten years" at both the places where they occur, the words "five years" had been substituted.**]**

[21]**[*Explanation.*—**Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) of sub-section (1), read with the ***Explanation***to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust 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*) of clause (*23C*) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.**]**

[22]**[**(3) Any income referred to in sub-section (2) which—

(*a*) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

[23]**[**(*b*) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or**]**

(*c*) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (*a*) of that sub-section or in the year immediately following the expiry thereof,

[24]**[**(*d*) is credited or paid to any trust or institution registered under section 12AA or to any fund or institution or trust 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*) of clause (*23C*) of section 10,**]**

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or [25]**[**credited or paid or**]**, as the case may be, of the previous year immediately following the expiry of the period aforesaid.**]**

[26]**[**(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (*b*) of sub-section (2)

cannot be applied for the purpose for which it was accumulated or set apart, the [27]**[**Assessing**]** Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the [28]**[**Assessing**]** Officer under clause (*a*) of sub-section (2):**]**

[29]**[Provided** that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (*d*) of sub-section (3) of section 11:**]**

[30]**[Provided further** that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (*b*) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (*d*) of sub-section (3) in the year in which such trust or institution was dissolved.**]**

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the [31]**[**Assessing**]** Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes [32]**[*** * ***].**

[33]**[**(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.**]**

[34]**[**(5) The forms and modes of investing or depositing the money referred to in clause (*b*) of sub-section (2) shall be the following, namely :—

(*i*) investment in savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(*ii*) deposit in any account with the Post Office Savings Bank;

(*iii*) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "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);

(*iv*) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(*v*) investment in any security for money created and issued by the Central Government or a State Government;

(*vi*) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(*vii*) investment or deposit in any [35]**[**public sector company**]:**

[36]**[Provided** that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(*A*) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(*B*) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company**;]**

(*viii*) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and [37]**[**which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36**]**;

(*ix*) deposits with or investment in any bonds issued by a 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 and [38]**[**which is eligible for deduction under clause (*viii*) of sub-section (1) of section 36**]**;

[39]**[**(*ixa*) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(*a*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

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

(*c*) "urban infrastructure" means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;**]**

(*x*) investment in immovable property.

Explanation.—"Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;**]**

[40]**[**(*xi*) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);**]**

[41]**[**(*xii*) any other form or mode of investment or deposit as may be prescribed.**]**

Notes :-

1. Section 11, which was omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989, was reintroduced by the Direct Tax Laws (Amendment) Act, 1989, with effect from the same date with modifications.

2. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Earlier, clauses (a) and (b) were amended by the Finance Act, 1970, w.e.f. 1-4-1971.

3. Substituted for "twenty-five" by the Finance Act, 2002, w.e.f. 1-4-2003.

4. Substituted for "twenty-five" by the Finance Act, 2002, w.e.f. 1-4-2003.

5. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

6. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

7. Substituted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976. Earlier, the Explanation was also substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

8. Substituted for "twenty-five" by the Finance Act, 2002, w.e.f. 1-4-2003.

9. Substituted for "seventy-five" by the Finance Act, 2002, w.e.f. 1-4-2003.

10. "or sub-section (2)" omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

11. ", whether fixed originally or on extension" omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

12. Inserted by the Finance (No. 2) Act, 1971, w.r.e.f. 1-4-1962.

13. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

14. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

15. Substituted for the portion beginning with "Where any income referred to in" and ending with "are complied with, namely :—" by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

16. Substituted for "seventy-five" by the Finance Act, 2002, w.e.f. 1-4-2003.

17. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

18. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983. Original clause (b) was earlier amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978.

19. Inserted by the Finance Act, 1993, w.r.e.f. 1-4-1962.

20. Inserted by the Finance Act, 2001, w.e.f. 1-4-2002.

21. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

22. Substituted by the Finance Act, 1970, w.e.f. 1-4-1971.

23. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983.

24. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

25. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

26. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976.

27. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

28. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

29. Inserted by the Finance Act, 2002, w.e.f. 1-4-2003.

30. Inserted by the Finance Act, 2003, w.e.f. 1-4-2003.

31. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

32. "and accordingly chargeable to tax within the meaning of sub-section (3)" omitted by the Finance Act, 1970, w.e.f. 1-4-1971.

33. Substituted by the Finance (No. 2) Act, 1991, w.e.f. 1-4-1992. Prior to its substitution, sub-section (4A) was inserted by the Finance Act, 1983, w.e.f. 1-4-1984.

34. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

35. Substituted for "Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)" by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

36. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

37. Substituted for "which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36" by the Finance Act, 2000, w.e.f. 1-4-2000.

38. Substituted for "which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36" by the Finance Act, 2000, w.e.f. 1-4-2000.

39. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

40. Inserted by the Finance Act, 1984, w.e.f. 1-4-1985.

41. Inserted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.

[1][Income of trusts or institutions from contributions.

12. **[2][**(1)**]** Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.**]**

[3][(2) The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (3) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (1) of section 11.

Explanation.—For the purposes of this sub-section, the expression "value" shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (3) of section 13.**]**

[4][(3) Notwithstanding anything contained in section 11, any amount of donation received by the trust or institution in terms of clause (*d*) of sub-section (2) of section 80G **[5][**in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (*v*) of sub-section (5C) of that section, in the manner specified in that clause, or**]** which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, **[6][**2004**]** shall be deemed to be the income of the previous year and shall accordingly be charged to tax.**]**

Notes :-

1. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, section 12 was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 12 was substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

2. Section 12 renumbered as section 12(1) by the Finance Act, 2000, w.e.f. 1-4-2001.

3. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001.

4. Inserted by the Taxation Laws (Amendment) Act, 2001, w.r.e.f. 3-2-2001.

5. Inserted by the Finance Act, 2002, w.r.e.f. 3-2-2001.

6. Substituted for "2003" by the Finance Act, 2003, w.r.e.f. 3-2-2001. Earlier "2003" was substituted for "2002" by the Finance Act, 2002, w.r.e.f. 3-2-2001.

[1]**[**[2]**[*Conditions for applicability of sections 11 and 12.*]**

12A. [3]**[***(1)***]** The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(*a*) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the [4]**[*******]** Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, [5]**[**whichever is later and such trust or institution is registered under section 12AA**]** :

[6]**[Provided** that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution,—

(*i*) from the date of the creation of the trust or the establishment of the institution if the [7]**[*******]** Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(*ii*) from the 1st day of the financial year in which the application is made, if the [8]**[*******]** Commissioner is not so satisfied**:]**

[9]**[Provided further** *that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;*

*(*aa*) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the Commissioner and such trust or institution is registered under section 12AA;***]**

(*b*) where the total income of the trust or institution as computed under this Act without giving effect to [10]**[***the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year***]**, the accounts of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the person in receipt of the income furnishes 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.**]**

(*c*)[11]**[***]**

[12]**[***(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made.***]**

Notes :-

1. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, section 12A was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 12A was inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

2. Substituted for the heading "Conditions as to registration of trusts, etc." by the Finance Act, 2007, w.e.f**. 1-6-2007.**

3. Inserted by the Finance Act, 2007, w.e.f. **1-6-2007.**

4. Words "Chief Commissioner or" omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

5. Substituted for "whichever is later" by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

6. Substituted for the following by the Finance (No. 2) Act, 1991, w.e.f. 1-10-1991:

"Provided that the Chief Commissioner or Commissioner may, in his discretion, admit an application for the registration of any trust or institution after the expiry of the period aforesaid;"

7. Words "Chief Commissioner or" omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

8. Words "Chief Commissioner or" omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

9. Inserted by the Finance Act, 2007, w.e.f. **1-6-2007.**

10. Substituted for "the provisions of section 11 and section 12 exceeds fifty thousand rupees in any previous year" by the Taxation Laws (Amendment) Act, 2006, w.r.e.f.**1-4-**

2006. Earlier the quoted words were amended by the Finance Act, 1994, w.e.f. 1-4-1995.

11. Omitted by the Finance Act, 2002, w.e.f. 1-4-2002. Prior to its omission, clause (c), as inserted by the Finance Act, 2001, w.e.f. 1-4-2002, read as under :

"(c) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds one crore rupees in any previous year, the trust or institution—

(i) publishes its accounts in a local newspaper, before the due date for furnishing the return of income under sub-section (4A) of section 139; and

(ii) furnishes a copy of such newspaper along with such return."

12. Inserted by the Finance Act, 2007, w.e.f.**1-6-2007.**

[1][Procedure for registration.

12AA. *(*1) The **[2][***]** Commissioner, on receipt of an application for registration of a trust or institution made under clause (*a*) **[3][***or clause (*aa*) of sub-section (1)***]**of section 12A, shall—

(*a*) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(*b*) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(*i*) shall pass an order in writing registering the trust or institution;

(*ii*) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant :

Provided that no order under sub-clause (*ii*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

[4][(1A) All applications, pending before the Chief Commissioner on which no order has been passed under clause (*b*) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the Commissioner and the Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.]

(2) Every order granting or refusing registration under clause (*b*) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (*a*) [5]**[***or clause (*aa*) of sub-section (1)***]** of section 12A.**]**

[6]**[**(3) Where a trust or an institution has been granted registration under clause (*b*) of sub-section (1) and subsequently the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.**]**

Notes :-

1. Inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

2. Words "Chief Commissioner or" omitted by the Finance Act, 1999, w.e.f. 1-6-1999. Earlier the quoted words were inserted by the Finance (No. 2) Act, 1996, w.e.f. 1-4-1997.

3. Inserted by the Finance Act, 2007, w.e.f.**1-6-2007.**

4. Inserted by the Finance Act, 1999, w.e.f. 1-6-1999.

5. Inserted by the Finance Act, 2007, w.e.f.**1-6-2007.**

6. Inserted by the Finance (No. 2) Act, 2004, w.e.f. 1-10-2004.

[1]**[Section 11 not to apply in certain cases.**

13. (1) Nothing contained in section 11 [2]**[**or section 12**]** shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(*a*) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;

(*b*) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;

(*bb*) [3]**[*** * *]**

(*c*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(*i*) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(*ii*) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (3) :

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution :

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (*ii*) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) in so far as such use or application relates to any period before the 1st day of June, 1970;

[4]**[**(*d*) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(*i*) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(*ii*) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

[5]**[***(*iii*) any shares in a company, other than—*

*(*A*) shares in a public sector company ;*

*(*B*) shares prescribed as a form or mode of investment under clause (*xii*) of sub-section (5) of section 11,*

are held by the trust or institution after the 30th day of November, 1983: **]**

Provided that nothing in this clause shall apply in relation to—

(*i*) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973 [6]**[*******];**

[7]**[**(*ia*) any accretion to the shares, forming part of the corpus mentioned in clause (*i*), by way of bonus shares allotted to the trust or institution**;]**

(*ii*) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

[8]**[**(*iia*) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, [9]**[**1993**]**, whichever is later**;]**

(*iii*) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation.—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (*iii*) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business**.]**

[10]**[*Explanation.*—**For the purposes of sub-clause (*ii*) of clause (*c*), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (*ii*) of clause (*a*) thereof] of the Finance Act, 1972**.]**

(2) Without prejudice to the generality of the provisions of clause (*c*) [11]**[**and clause (*d*)**]** of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(*a*) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;

(*b*) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;

(*c*) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(*d*) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;

(*e*) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

(*f*) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

[12]**[**(*g*) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;**]**

(*h*) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has a substantial interest.

(3) The persons referred to in clause (*c*) of sub-section (1) and sub-section (2) are the following, namely :—

(*a*) the author of the trust or the founder of the institution;

(*b*) any person who has made a substantial contribution to the trust or institution, [13]**[**that is to say, any person whose total contribution up to the end of the relevant previous year exceeds [14]**[**fifty**]** thousand rupees**];**

(*c*) where such author, founder or person is a Hindu undivided family, a member of the family;

[15]**[**(*cc*) any trustee of the trust or manager (by whatever name called) of the institution**;]**

(*d*) any relative of any such author, founder, person, [16]**[**member, trustee or manager**]** as aforesaid;

(*e*) any concern in which any of the persons referred to in clauses (*a*), (*b*), (*c*) [17]**[**, (*cc*)**]** and (*d*) has a substantial interest.

(4) Notwithstanding anything contained in clause (*c*) of sub-section (1) [18]**[**but without prejudice to the provisions contained in clause (*d*) of that sub-section**]**, in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital of that concern, the exemption under section 11 [19]**[**or section 12**]** shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the [20]**[**funds**]** of the trust or the institution have been invested in a concern in which such person has a substantial interest.

[21]**[**(5) Notwithstanding anything contained in clause (*d*) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.**]**

[22]**[**(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), but without prejudice to the provisions contained in sub-section (2) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (*a*) or clause (*b*) or clause (*c*) or clause (*cc*) or clause (*d*) of sub-section (3).]

[23]**[***(7) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.***]**

[24]**[*Explanation 1.*—**For the purposes of sections 11, 12, 12A and this section, "trust" includes any other legal obligation and for the purposes of this section "relative", in relation to an individual, means—

(*i*) spouse of the individual;

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

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

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

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

(*vi*) spouse of a person referred to in sub-clause (*ii*), sub-clause (*iii*), sub-clause (*iv*) or sub-clause (*v*);

(*vii*) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.**]**

***Explanation 2.*—**A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (*b*) of sub-section (1).

***Explanation 3.*—**For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);

(*ii*) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.**]**

Notes :-

1. Reintroduced by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Earlier, it was omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from the same date. Original section 13 was substituted by the Finance Act, 1970, w.e.f. 1-4-1971 and prior to its substitution, it was amended by the Finance Act, 1966, w.e.f. 1-4-1966 and the Finance Act, 1963, w.r.e.f. 1-4-1962.

2. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

3. Omitted by the Finance Act, 1983, w.e.f. 1-4-1984. Original clause (bb), was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

4. Substituted by the Finance Act, 1983, w.e.f. 1-4-1983. Original clause was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977. It was later on amended by the Finance (No. 2) Act, 1977, w.e.f. 1-4-1978 and by the Finance Act, 1982, w.e.f. 1-4-1982.

5. Substituted by the Finance Act, 2007, w.r.e.f. 1-4-1999. Prior to its substitution, sub-clause (iii) read as under :

"(iii) any shares in a company not being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act are held by the trust or institution after the 30th day of November, 1983:"

6. Words "and such assets were not purchased by the trust or institution or acquired by it by conversion of, or in exchange for, any other asset" omitted by the Finance Act, 1992, w.r.e.f. 1-4-1983.

7. Inserted by the Finance Act, 1992, w.r.e.f. 1-4-1983.

8. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1983.

9. Substituted for "1992" by the Finance Act, 1992, w.e.f. 1-4-1992.

10. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

11. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

12. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

13. Inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

14. Substituted for "twenty-five" by the Finance Act, 1994, w.e.f. 1-4-1995. Earlier, "twenty-five" was substituted for "five" by the Taxation Laws (Amendment) Act, 1984, w.e.f. 1-4-1985.

15. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

16. Substituted for "or member" by the Finance Act, 1972, w.e.f. 1-4-1973.

17. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

18. Inserted by the Finance Act, 1983, w.e.f. 1-4-1983.

19. Inserted by the Finance Act, 1972, w.e.f. 1-4-1973.

20. Substituted for "moneys" by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1971.

21. Inserted by the Finance (No. 2) Act, 1991, w.r.e.f. 1-4-1983. Original sub-section (5) was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1976 and omitted by the Finance Act, 1983, w.e.f. 1-4-1983.

22. Inserted by the Finance Act, 2000, w.e.f. 1-4-2001. Earlier sub-section (6) was omitted by the Finance Act, 1983, w.e.f. 1-4-1983. Original sub-section (6) was inserted by the Taxation Laws (Amendment) Act, 1975, w.e.f. 1-4-1977.

23. Inserted by the Finance Act, 2006, w.e.f. **1-4-2007.**

24. Substituted by the Finance Act, 1972, w.e.f. 1-4-1973.

[1][Special provision relating to incomes of political parties.

13A. Any income of a political party which is chargeable under the head **[2][*******]** "Income from house property" or "Income from other sources" or **[3][**"Capital gains" or**]** any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party :

Provided that—

(*a*) such political party keeps and maintains such books of account and other documents as would enable the **[4][**Assessing**]** Officer to properly deduce its income therefrom;

(*b*) in respect of each such voluntary contribution in excess of **[5][**twenty**]** thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; and

(*c*) the accounts of such political party are audited by an accountant as defined in the ***Explanation*** below sub-section (2) of section 288 :

[6][Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year.**]**

[7][*Explanation.*—For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).**]**

Notes :-

1. Inserted by the Taxation Laws (Amendment) Act, 1978, w.e.f. 1-4-1979.

2. ' "Interest on securities" ,' omitted by the Finance Act, 1988, w.e.f. 1-4-1989.

3. Inserted by the Finance Act, 2003, w.r.e.f. 1-4-1979.

4. Substituted for "Income-tax" by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.

5. Substituted for "ten" by the Election and Other Related Laws (Amendment) Act, 2003, w.e.f. 11-9-2003.

6. Inserted by the Election and Other Related Laws (Amendment) Act, 2003, w.e.f. 11-9-2003.

7. Substituted, by the Election and Other Related Laws (Amendment) Act, 2003, w.e.f. 11-9-2003. Prior to its substitution, Explanation read as under :

***'Explanation.*—**For the purposes of this section, "political party" means an association or body of indi vidual citizens of India registered with the Election Commission of India as a political party under paragraph 3 of the Election Symbols (Reservation and Allotment) Order, 1968, and includes a political party deemed to be registered with that Commission under the proviso to sub-paragraph (2) of that paragraph.'

Special provisions relating to voluntary contributions received by electoral trust.

13B. Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

(a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(b) such electoral trust functions in accordance with the rules made by the Central Government.

****

Notes:

1. Section 13B Inserted vide Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2010

CASE LAWS

1 2009 TMI - 33104 - MADRAS HIGH COURT

ST. JOSEPH'S ESTATE Versus STATE OF TAMIL NADU

Dated: 29-08-2007

Sections - 010(1), 011,

Claim for exemption in respect of agricultural income derived from property held in trust for religious/charitable purpose - claim of the assessee for exemption can be accepted if assessee proves its status as a charitable institution - since admittedly the petitioner had not produced the trust deed before the revisional authority, the matter merits to be remitted back to the revisional authority concerned to verify the trust deed to consider the claim for exemption

2 2009 TMI - 32437 - SUPREME COURT

Commr. of Income Tax, Dibrugarh versus Doom Dooma India Ltd. & Assam Co. Ltd.

Dated: 18-02-2009

Sections - 043, R008, 010(1),

Meaning of expression "depreciation actually allowed" in S. 43(6)(b) is that "limited to depreciation actually taken into account i.e. debited by the ITO against the incomings of the business in computing the taxable income" - for computing depreciation in cases falling u/r 8 of ITR, the income which is brought to tax as "business income" is only 40 % of the composite income & consequently proportionate depreciation should be taken into account because that is the depreciation "actually allowed"

3 2008 TMI - 31088 - DELHI HIGH COURT

COMMISSIONER OF INCOME TAX Versus NOBLE AND HEWITT (I) P. LTD.

Dated: 10-09-2007

Sections - 043B, 010(1), 010(2), 028,

Service tax collected – assessee neither claimed any deduction nor debited the amount in the P/L A/c– AO & CIT disallowed the amount and added it back to the income of assessee – held that since the assessee did not debit the amount to the Profit and Loss A/c as an expenditure nor did the assessee claim any deduction in respect of the amount and considering that the assessee is following the mercantile system of accounting, the question of disallowing the deduction not claimed would not arise

4 **2008 TMI - 30821 - MADHYA PRADESH HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus TARACHAND KHUSHIRAM

Dated: 18-04-2006

Sections - 148, 256, 273, 271, 010(1), 221,

Delay in service of order of assessment on assessee – SCN issued requiring the assessee to the show cause as to why penalty should not be levied on him for non-payment of the assessed tax – it is clear that SCN was showing date of hearing prior to date of service of assessment order – hence Tribunal was justified in holding that the assessments are barred by limitation - reference is answered in favour of the assessee

5 **2008 TMI - 12429 - MADHYA PRADESH High Court**

Commissioner of Income-Tax Versus Nabhinandan Digamber Jain.

Dated: 02-05-2001

Sections - 010(1), 011, 256,

Charitable Purposes, Agricultural Income, Exemption - "(i) Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is justified in holding that the agricultural income will not form part of total income for the purpose of computing the accumulation of income in excess of 25 per cent. of the total income as laid down under section 11 of the Income-tax Act, 1961?" - "Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is justified in holding that the agricultural income will not form part of total income for the purpose of computing the accumulation of income in excess of 25 per cent. of the total income as laid down under section 11 of the Income-tax Act 1961?" - Section 10(1) of the Act excludes agricultural income and in that view of the matter, we are of the opinion that the reference as sought for is uncalled for.

6 **2008 TMI - 11002 - ALLAHABAD High Court**

Jugal Kishore Arora Versus Deputy Commissioner Of Income-Tax.

Dated: 19-05-2004

Sections - 002(1A), 010(1), 253,

Assessee owns a plant nursery where he grows ornamental and decorative plants which he sells and derives income therefrom - assessing authority held that the assessee's income was not agricultural income – In further appeal, the Tribunal has held that the Assessing Officer should bring on record the nature of the operations, viz., primary as well as secondary on the specific land area - Tribunal observed that the Assessing Officer has to examine how the assessee can be said to be carrying on agriculture - Mere performing of the secondary operation will not make the assessee's activity an agricultural activity - We find no illegality in the order of the Tribunal – Assessee’s appeals are dismissed.

7 **2008 TMI - 8588 - PUNJAB AND HARYANA High Court**

Commissioner of Income-Tax, Punjab Versus Arjan Singh.

Dated: 12-10-1971
Sections - 010(1), 002(1),

Agricultural income - assessee had taken 332 acres of land on lease - Whether, on the facts and in the circumstances of the case, the income of Rs. 21,000 was liable to be exempt as agricultural income under section 4(3)(viii) of the Indian Income-tax Act, 1922, equal to section 10(1) read with section 2(1)(a) of the Income-tax Act, 1961 – question is answered in the negative, i.e., in favour of the department and against the assessee

8 **2008 TMI - 8015 - ANDHRA PRADESH High Court**

Nizam Sugar Factory Limited Versus Appellate Assistant Commissioner of Income-Tax, D-Range, Hyderabad.

Dated: 25-03-1970
Sections - 002(1), 010(1),

Assessee produced sugar cane and used it as raw material in his Sugar industry - sugarcane grown by the assessee became its agricultural income, when it is used as a raw material. Therefore, the assessee was entitled to the deduction u/r 7 of the Income-tax Rules, 1962 - it is not necessary that the agricultural produce grown by the assessee should be sold - agricultural produce grown by the assessee would constitute agricultural income within the meaning of section 2(1) of Income-tax Act, 1961

9 **2008 TMI - 6614 - MADRAS High Court**

Kothari And Sons. Versus Commissioner of Income-Tax, Madras.

Dated: 25-03-1965
Sections - 010(1),

Deduction - whether the loss arose in the course of the business of the assessee and whether the assessee is entitled to have it adjusted in the computation of its profits under section 10(1) - assessee would be entitled to an even larger amount, since it has not been possible for the auditors to check and ascertain the exact amount involved

10 **2008 TMI - 5611 - SUPREME Court**

Thiru Arooran Sugars Limited Versus Commissioner of Income-Tax

Dated: 30-07-1997

Sections - 010(1), 256,

Computation of income - Income which is partially agricultural & partially from business - assessee-company, is a manufacturer of sugar which purchases sugarcane from the market for crushing. It also has its own cane fields where it cultivates sugarcane which is entirely consumed by its factory - held price of sugarcane grown in its own fields had to be computed u/r 7(2)(a) - assessee's prayer is for a direction to the Tribunal to consider new questions of fact, is not acceptable

11 **2008 TMI - 3455 - MADRAS HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus HEERA FINANCIAL SERVICES LTD.

Dated: 08-06-2007

Sections - 143, 033, 010(2), 010(1),

Leasing finance – Lease agreement cancelled – lease rent accounted as income written off as bed debts - leased film rolls weren't used by lessee, kept ready for use because of strike in film – Held that depreciation is allowed as assessee even though a passive user was deemed to be active user

12 **2008 TMI - 3361 - SUPREME COURT**

Commissioner of Income Tax, Chennai versus M/s Bilahari Investment (P) Ltd

Dated: 27-02-2008

Sections - 010(1),

Chit Fund business - allowance of Discount as deductible amount from in the P & L Account in the year in which it accrued or to be spread over the balance period of chit on proportionate basis – where the accounts are kept on mercantile basis, deduction is allowed on completion of contract basis

13 **2008 TMI - 2994 - Supreme Court of India**

COMMISSIONER OF INCOME-TAX Versus WILLIAMSON FINANCIAL SERVICES AND OTHERS

Dated: 12-12-2007

Sections - 080HHC, R008, 295, 002(45), 002(24), 005, 080A, 080B, 066, 110, 086, 086A, 080C, 080U, 029, 043A, 014, 080AB, 080HH, 080HHB, 080IA, 080I, 010, R024, 002(1A), 010(1), R007, 004, 012, 015, 059, R008, 072, Deduction u/s 80HHC - Assessee claim deduction of 80HHC before the apportionment under rule 8(1) but AO denied the assessee claim on the ground that the deduction allowable only on that part which is includible in the GTI - SC also affirmed the order of AO

14 **2007 TMI - 2370 - Supreme Court of India**

Commissioner of Income Tax Versus Willamson Financial Services & Ors.

Dated: 12-12-2007

Sections - 080HHC, R008, 295, 002(45), 005, 080A, 080C, 080U, 029, 043A, 080AB, 080IA, 080I, 010, R024, 002(1A), 010(1), R007, 002(24), 080B, 066, 086, 086A, 110, 059, 015, 012, 014, 072, 071,

Whether section 80HHC deduction is admissible against the entire or part of the income from the tea business (i.e. 40%).- Held that deduction is admissible only to the part of income - for the purpose of deduction under ch. VI-A, determination of income under ch. IV should be made correctly

15 **2007 TMI - 2290 - HIGH COURT, RAJASTHAN**

ARIHANT TILES AND MARBLES P. LTD. Versus INCOME-TAX OFFICER

Dated: 30-05-2007

Sections - 080IB, 080IA, 080HHC, 080HH, 032A, 263, 033, 044AB, R006G, 002(1A), 010(1),

Deduction – AO contended that assessee is not entitle for deduction u/s 80-IB on the ground that as there is no qualitative change in the marble slabs and also not amounting to manufacture – Held that AO was not correct and allowed deduction

16 **2007 TMI - 2087 - HIGH COURT , GAUHATI**

BHIKAMCIIAND BETALA AND SONS Versus INCOME-TAX OFFICER

Dated: 21-08-2007

Sections - 260A, 043, 028, 073, 041, 024, 010(1),

Speculation loss - Assessee claim the share business loss amount was deductible from total income - Held that transaction in shares as claimed by the assessee can't be treated as genuine and accordingly not allowed

Cases for: 010(10),

1 **2008 TMI - 9504 - KERALA High Court**

Gwalior Rayons Staff Association And Another Versus Union of India And Others.

Dated: 17-10-2005

Sections - 010(10),

Gratuity - The first petitioner is the Gwalior Rayons Staff Association, represented by its joint secretary. The second petitioner is a member of staff as is also a member of the first petitioner-association. The prayer made in this original petition is to declare that the provisions of section 10(10)(iii) of the Income-tax Act to the extent it has allowed exemption based on the method of calculation as illegal and discriminatory and for other consequential reliefs. - In other cases not governed by section 10(10)(i) or section 10(10)(ii), section 10(10)(iii) applies which excludes the gratuity amount up to the rate of 15 days' wages for every year of completed service subject to a maximum in this regard. Therefore, the gratuity that has been excluded and the prescription of the rate is irrespective of whether it is paid under the Gratuity Act or any other scheme. In this view of the matter, I do not find that the petitioners are inequally treated or that equals are treated inequally. Hence, there is no merit in this writ petition

Cases for: 010(10B),

1 **2008 TMI - 5889 - SUPREME Court**

Mahendra Singh Dhantwal Versus Hindustan Motors Limited

Dated: 04-09-1984

Sections - 010(10B),

Compensation in the amount of Rs. 20,000 was awarded only in lieu of reinstatement - it is conceded that the appellant's service was liable to stand terminated under the contract of service, the back-wages would be payable only for the period commencing from the date of termination till the date on which that service will come to an end under the terms of contract - held that where compensation is awarded to dismissed workman, he is entitled to exemption of Rs. 20,000 u/s 10(10B)

Cases for: 010(10C),

1 **2009 TMI - 35004 - MADRAS HIGH COURT**

COMMISSIONER OF INCOME-TAX AND OTHERS Versus M. CHELLADURAI AND OTHERS

Dated: 25-02-2008

Sections - 010(10C),

Exemption – voluntary retirement – conditions of the scheme - The assessee claimed deduction under section 10(10C) of the Income-tax

Act, 1961, for a sum of Rs. 5 lakhs from the benefit received on his voluntary retirement under the scheme called "Early Retirement Option Scheme" – during scrutiny assessment AO demanded the copy of scheme – assessee said the scheme was not available and could not produce the same – AO denied the exemption – before ITAT assessee submitted the scheme and ITAT allowed the exemption accordingly – held that - In order to entitle the person the benefit under section 10(10C) of the Act the provisions of section 10(10C) and rule 2BA (Circular No. 640) should be complied with cumulatively and compliance with some of them would not entitle the employee the benefit as claimed for – Exemption is not allowed – order of ITAT reversed

2 **2009 TMI - 35001 - MADRAS HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus M. AROKIAM AND ANOTHER

Dated: 01-08-2008

Sections - 010(10C), 260A,

Voluntary retirement scheme – exemption u/s 10(10C) – appeal before high court – CBEC circular no. 279/126/98 dated 27.3.2000 – held that – decision of ITAT is not correct and liable to be set aside allowing the exemption to assessee – but - , the tax effect in one appeal is Rs. 1,49,913 and in another appeal is Rs. 1,83,480, which is below the tax effect fixed in Instruction 1979 Circular F. No. 279/126/98 dated March 27, 2000, wherein it has been stated that an appeal to the High Court could be filed by the Revenue only if the tax effect is more than Rs. 2 lakhs. - rejected the appeal filed by the Revenue on the premise that not only the tax effect involved was below the sum fixed in the circular but also the other qualifications prescribed therein were also not available to carve out and bring the case outside the purview of the circular

3 **2009 TMI - 34664 - CHHATTISGARH HIGH COURT**

INCOME-TAX OFFICER Versus DHAN SAI SRIVAS (and other cases)

Dated: 16-06-2009

Sections - 010(10C),

Retrospective application of amendment to section 10(10C) – ITAT allowed the claim of the assessee for exemption under section 10(10C) of the Income-tax Act, 1961 (for short 'the Act') to the extent of Rs. 5,00,000 by applying the prospective amendment retrospectively – held that - salary or benefit in lieu of salary payable to an employee opting for voluntary retirement is chargeable to tax under section 15(a) as soon as it became due, though not paid. The amount so received is exempted from being charged to tax to the extent of Rs. 5,00,000 by the reason of section 10(10C) of the Act. Even if the payment is stretched over a period of years, the same would not become chargeable to tax in any subsequent assessment year – decided in favor of assessee – revenue's appeal dismissed.

4 **2009 TMI - 33601 - MADRAS HIGH COURT**

Commissioner of Income-tax Versus M. Abdul Kareem

Dated: 17-07-2007

Sections - 010(10C), 089,

Assessee received compensation under the voluntary retirement scheme - eligibility to claim simultaneous benefit u/s 10(10C) as well as section 89(1) - held that the notions of equity do not apply in taxing statutes. If the assessee is entitled to two different benefits on the plain language of the statute, he has to be granted both those benefits. - there is no prohibition to the twin benefits in respect of the amount received under the voluntary retirement scheme - relief contemplated u/s 89(1) is aimed to mitigate the hardship that may be caused on account of the high incidence of tax due to progressive increase in tax rates and thus held that the benefit under sections 10(10C) and 89(1) could be granted to the assessee

5 **2009 TMI - 33024 - MADRAS HIGH COURT**

Commissioner of Income Tax Tiruchirapalli Versus P. Madhavan

Dated: 18-03-2009

Sections - 010(10C), 089,

Whether the amount paid to assessee-employee under the Voluntary Retirement Scheme is entitled for deduction - assessee has filed a return of income claiming exemption under Section 10(10C) and also relief under Section 89(1) – question is answered in affirmative in favour of assessee – revenue appeal is dismissed

6 **2008 TMI - 14089 - CALCUTTA High Court**

Sail-dsp Vr Employees Association-'98 Versus Union of India And Others

Dated: 03-04-2001

Sections - 010(10c),

Exemption, Writ, Tax Deducted From Monthly Payments

7 **2008 TMI - 11878 - CALCUTTA High Court**

Sail Dsp Vr Employees Association 1998 Versus Union of India And Others.

Dated: 20-02-2003

Sections - 010(10C), 017, R002BA,

Claim for exemption - In this case the petitioner-appellants were subjected to voluntary retirement pursuant to a Voluntary Retirement Scheme (Scheme) by the employer respondent. The scheme appears at page 21 of the paper book (annexure B to the writ petition). The respondent authority had been deducting tax at source under the provisions of section 192 of the Income-tax Act, 1961. This seems to have been clarified by the employer through annexure C at page 24 of the paper book. This has since been challenged by the employees' association, the petitioners/appellants, as not chargeable to tax in view of clause (10C) of section 10 of the Income-tax Act. – Held that, It is a deferred payment of the benefit receivable under the voluntary retirement scheme. Therefore, it would not be payment of salary outside the scope of section 10(10C). The characteristic cannot be changed because of stretching over the period of payment of dues under the scheme.

8 2008 TMI - 10765 - KARNATAKA High Court

Commissioner of Income-Tax And Another Versus P. Surendra Prabhu.

Dated: 21-09-2005

Sections - 010, 017, 089, 010(10C), 192, 089, 201,

Amount received under the voluntary retirement scheme – claim for exemption under section 10(10C) and also relief under section 89(1) - the amount received by the assessee under the voluntary retirement scheme after the exempted income under section 10(10C) is compensation received in connection with the termination of his employment within the meaning of section 17(3)(i) - we are of the opinion that the assessee employee of the respondent bank is not only entitled to the benefit of exemption under section 10(10C) to the extent prescribed in the provision itself and any amount over and above the prescribed limit under the aforesaid provision, the assessee is also entitled to the relief under section 89(1) read with rule 21A of the Rules - there is no default or failure on the part of the respondent bank when the relief under section 89(1), was granted to the assessee on his production of Form No. 10E - appeals filed by the Revenue require to be rejected and they are rejected

9 2008 TMI - 10466 - GUJARAT High Court

S. R. Koshti Versus Commissioner of Income-Tax.

Dated: 28-12-2004

Sections - 010(10C), 154, 263, 264, 139, 143,

Interest on refund – rectification - petitioner, an individual, challenges, by way of this petition under articles 226 and 227 of the Constitution of India, the orders made by the CIT under sections 263 and 264 - respondent-Commissioner has nowhere stated that the petitioner is not entitled to the relief under section 10(10C). In fact, the said position is undisputed. The Assessing Officer himself had passed an order under section 154, granting such relief. In the circumstances, even the order under section 264 of the Act made on March 29, 2004, cannot be sustained. - In the result, the orders dated March 29, 2004, made under sections 263 and 264 are quashed and set aside, and the order dated March 27, 2003, made by the Assessing Officer under section 154 of the Act shall prevail. The respondent is directed to not only issue the refund due in accordance with the order under section 154 dated March 27, 2003, but also grant interest under section 244A, till the date of payment of the refund

10 **2008 TMI - 10196 - MADRAS High Court**

[Commissioner of Income-Tax Versus G. V. Venugopal.]

Dated: 06-12-2004
Sections - 010(10C), 089, R021A,

Compensation received under the voluntary retirement scheme - simultaneous benefit under section 10(10C) and 89(1) - There is no prohibition to the twin benefits in respect of the amount received under the voluntary retirement scheme - Tribunal was right in holding that the assessee is eligible to claim simultaneous benefit under section 10(10C) as well as section 89(1) in respect of the compensation received under the voluntary retirement scheme – Further, it is well settled that if two reasonable interpretations of taxing statutes are possible, the one in favour of the assessee should be accepted

11 **2008 TMI - 9914 - MADRAS High Court**

[Commissioner of Income-Tax Versus J. Ramamani.]

Dated: 03-03-2006
Sections - 010(10C), 089,

Compensation received under the voluntary retirement scheme - case of the appellant-revenue is that the assessee/respondent herein, availed of the benefit of the voluntary retirement scheme and claimed exemption of the amount of compensation received, both under section 10(10C) and section 89(1) – held that there was no prohibition to the twin benefits in respect of the amount received under the voluntary retirement scheme. - Tribunal was right in holding that the assessee is eligible to claim simultaneous benefit under section 10(10C) as well as section 89(1) in respect of the compensation received under the voluntary retirement scheme

12 **2008 TMI - 9895 - GUJARAT High Court**

[Arunkumar T. Makwana Versus Income-Tax Officer.]

Dated: 30-03-2006
Sections - 010(10C), 260A,

Amount receivable by the assessee on his voluntary retirement - Tribunal has held that under rule 2BA (vi) only the lower of the two limits specified therein is exempt and, therefore, only a sum of Rs. 35,445 being the lower limit, would be allowable to the assessee under section 10(10C) - Tribunal has substantially erred in law in importing words 'whichever is lower' in rule 2BA(vi) of the Income-tax Rules, 1962 - On a plain interpretation of the provisions of section 10(10C) of the Act and clause (vi) of rule 2BA of the Rules, this court is of the opinion that the Tribunal was not justified in allowing the amount representing the lower of the two limits under the scheme of voluntary retirement. - Tribunal has substantially erred in law in holding that out of the two limits prescribed by clause (vi) of rule 2BA, the lower limit is exempt

13 **2008 TMI - 9854 - BOMBAY High Court**

[Rbi]

Dated: 06-06-2006

Sections - 010(10C), 154, R002BA,

Maintainability of petition – exemption u/s 10(10C) - Petition by an unregistered association, formed by the employees of the Reserve Bank of India, who have opted to retire under the "Optional Early Retirement Scheme" (OERS) framed by the Reserve Bank of India (RBI) - exemption under section 10(10C) with respect to ex gratia payment made to the employees denied on ground that scheme did not conform to the provisions of rule 2BA of the Income-tax Rules - assessees have filed appeals against the orders passed under section 154 and such appeals are pending. In this view of the matter, considering the availability of the adequate and effective alternate remedy of appeal, this is not a fit case to entertain this petition at this stage. Even otherwise, an unincorporated association is not a legal person and as such this writ petition is not maintainable at the instance of the petitioner-association

14 **2008 TMI - 9767 - MADRAS High Court**

[Commissioner of Income-Tax Versus S. Sundar And Others.]

Dated: 20-01-2006

Sections - 010(10C), 089,

"Whether, Tribunal was right in holding that the assessee is eligible to claim simultaneous benefit u/s 10(10C) as well as section 89(1) in respect of the compensation received under the voluntary retirement scheme?" - "The second proviso to section 10(10C) only refers to exemption claimed in any other year. Every assessment year is a self-contained unit and the mere fact that the relief under section 89 had been spread over several years, did not mean that the relief was not in respect of a particular assessment year. There was no prohibition to the twin benefits in respect of the amount received under the voluntary retirement scheme. The relief contemplated under section 89(1) is aimed to mitigate hardship that may be caused on account of the high incidence of tax due to progressive increase in tax rates. Payment under the voluntary retirement scheme is covered by the word 'salary which has been given a very wide definition in section 17. Since the assessee was covered by section 89, he would get both the benefits." – revenue appeal dismissed

15 **2008 TMI - 9572 - KERALA High Court**

[State Bank of Travancore Versus Central Board of Direct Taxes And Another.]

Dated: 08-12-2005

Sections - 010(10C), 017, 089,

Whether the voluntary retirement from service would fall under the term "termination of employment" within the meaning of section 17(3) of the Income-tax Act, 1961, and the relief under section 89(1) is admissible after the grant of exemption under section 10(10C)(viii) - held that the compensation amount received by the employees under the voluntary retirement scheme from the bank is entitled to get relief under section 89(1) read with section 17(3)(i) of the Act over and above the exemption granted under section 10(10C)(viii) and the Letter No. F. 174/5/2001-ITA-I, dated April 23, 2001, issued by the Central Board of Direct Taxes, Bangalore, would stand quashed

16 2007 TMI - 2071 - ITAT, JODHPUR BENCH

P. I. INDUSTRIES LTD. Versus ASSISTANT COMMISSIONER OF INCOME-TAX

Dated: 28-07-2006

Sections - 037, 035DDA, 010(10C), 234B,

Cases for: 010(14),

17 2008 TMI - 30638 - MADRAS HIGH COURT

COMMISSIONER OF INCOME-TAX Versus K. M. PACHAYAPPAN

Dated: 04-07-2007

Sections - 147, 148, 143, 139, 237, 260A, 010(14), 249,

Reassessment notice u/s 148 issued even when valid return was filed and assessments have not been completed under Section 143 – held that no action could be initiated under Section 147 of the Act, when there is a pendency of the Return before the Assessing Officer - reasons given by the Tribunal are based on valid materials and evidence and we do not find any error or illegality in the order of the Tribunal so as to warrant interference – revenue’s appeal dismissed

Cases for: 010(15),

1 2009 TMI - 32087 - AUTHORITY FOR ADVANCE RULINGS

Yu Bo Investment Company Private Limited, In re

Dated: 24-05-2004

Sections - 193, 009, 010(15),

Applicant, a closely-held private limited company incorporated in India, engaged in the business of development of properties and allied activities, allotted partly convertible debentures to a company incorporated in Mauritius - Since exemption from tax has not been granted to the applicant either under Income-tax Act, 1961, or under the DTAA, the applicant is required to deduct tax at source in accordance with section 193 on interest paid or credited to the account of the foreign company

2 **2009 TMI - 32079 - HIGH COURT RAJASTHAN**

C.I.T BIKANER Versus MANAGER S.B.I. BIKANER

Dated: 26-08-2008

Sections - 195, 194I, 010(15),

Liability to deduct TDS on interest paid on TDR/STDR and on rent paid for the office building to four co-owners - interest paid by the Bank to the NRIs on deposits in Indian Currency was exempt u/s10(15)(iv)(fa) and thereby not subject to TDS u/s195 – further, when there are a number of owners of a property, the limit/ceiling of Rs.1,20,000 was applicable to each co-owner separately and thus, no tax was required to be deducted at source u/s 194I – revenue’s appeal dismissed

3 **2008 TMI - 31137 - SUPREME COURT**

Vijay Ship Breaking Corpn. & Ors. Versus Commnr. of Income Tax, Ahmedabad

Dated: 01-10-2008

Sections - 080HH, 080I, 195, 032A, 010(15),

Usance interest paid for purchase of the vessel for ship breaking – contention of the assessee that such interest partook of the character of the purchase price and, therefore, TDS was not deductible u/s 195(1), is acceptable - Since tax was not assessable in India, there was no question of TDS being deducted by the assessee - Tribunal was right in allowing the deduction u/s 80HH & 80I holding that the ship breaking activity gave rise to the production of a distinct & different article

4 **2008 TMI - 30850 - MADHYA PRADESH HIGH COURT**

SHREE SYNTHETICS LTD. Versus COMMISSIONER OF INCOME-TAX

Dated: 22-08-2006

Sections - 035D, 037, 080M, 260A, 045, 056, 010(15), 014A,

AO, CIT & ITAT were right in holding that expenditure towards execution of debenture issue was in the nature of preliminary expenses & thereby covered by section 35D and not by section 37, hence not deductible as revenue expenses – borrowed money used for purchase of securities will be treated as used for purpose of business, hence interest on that money is allowable as business expenditure – while calculating special deduction u/s 80M, interest on borrowed capital should be taken into account

Cases for: 010(15A),

1 **2008 TMI - 30825 - HIGH COURT DELHI**

AFT TRUST SUB 1 and OTHERS versus CHAIRMAN, CENTRAL BOARD OF DIRECT TAXES AND OTHERS

Dated: 05-09-2008

Sections - 010(15A),

Petitioner seek approval to the lease agreements u/s 10 (15A) in respect of aircrafts leased to Jet airways – aircrafts had been taken out of India and then brought back to India pursuant to the termination and execution of the fresh lease agreements - department contention that new agreement was only for taking benefit u/s 10(15A) as benefit was not available to earlier agreements, is not acceptable –new agreements were necessitated because of the change in the ownership – approval granted

2 **2008 TMI - 10567 - DELHI High Court**

Aft Trust-sub 1 And Others Versus Chairman, Central Board Of Direct Taxes And Others.

Dated: 05-10-2004

Sections - 010(15A),

Lease agreement of aircraft - Petitioner prayed that a direction be issued directing the Central Board of Direct Taxes to reconsider the application under section 10(15A) seeking approval to the lease agreements in respect of the two aircrafts leased to respondent No. 3 company. - It is clear that for getting the benefit of the aforesaid provision, the approval of the agreement by the Central Government is a must. In the instant case, admittedly, there is no approval by the Central Government. - It is contended by the Revenue that petitioner No. 3 was not a party to the agreement. However, it is not for this court to consider all this. It will be for the Central Government to examine these aspects. It is under these circumstances, as no cogent reasons have been given, we quash the impugned orders - We direct the Central Government to consider the application of the petitioners

Cases for: 010(2),

1 **2009 TMI - 32081 - HIGH COURT RAJASTHAN**

C.I.T. UDAIPUR Versus M/S SECURE METERS LTD.

Dated: 20-11-2008

Sections - 080HHC, 037, 010(2),

Whether Octroi, sales Tax and Excise Duty received by the assessee is not includable in the total turn over vis-à-vis the export turn over for computing deduction u/s 80HHC – question is answered in favour of assessee - Admittedly the debentures when issued is a loan, and therefore, whether it is convertible, or non convertible, does not militate against the nature of the debenture, being loan, and therefore, the expenditure on issue of debenture are admissible as revenue expenditure

2 **2008 TMI - 31088 - DELHI HIGH COURT**

COMMISSIONER OF INCOME TAX Versus NOBLE AND HEWITT (I) P. LTD.

Dated: 10-09-2007

Sections - 043B, 010(1), 010(2), 028,

Service tax collected – assessee neither claimed any deduction nor debited the amount in the P/L A/c– AO & CIT disallowed the amount and added it back to the income of assessee – held that since the assessee did not debit the amount to the Profit and Loss A/c as an expenditure nor did the assessee claim any deduction in respect of the amount and considering that the assessee is following the mercantile system of accounting, the question of disallowing the deduction not claimed would not arise

3 **2008 TMI - 30864 - HIGH COURT DELHI**

THE COMMISSIONER OF INCOME TAX, DELHI-IV. Versus M/S HI LINE PENS PVT. LTD.

Dated: 15-09-2008

Sections - 030, 032, 031, 010(2),

Expenditure on renovation of rented premises – decisions cited by revenue relate to “current repairs” – but there is a clear distinction between the expression “repairs” & “current repairs” - “current repairs” is restricted than “repairs” – no any new capital asset was brought out – expenses were made to make the premises more conducive to its business activity – hence cost of repairs incurred are allowable u/s 30(a)(i) - no question of considering the question of applicability of Section 32

4 **2008 TMI - 30567 - PUNJAB AND HARYANA HIGH COURT**

DALIMA BISCUITS P. LTD. Versus COMMISSIONER OF INCOME-TAX

Dated: 22-09-2006

Sections - 080VV, 037, 010(2),

Legal expenditure - Whether Tribunal was justified in holding that even under section 37(1), the retainership fee (legal expenses) paid on monthly basis to Advocate was disallowable – section 80VV not hit legal charges paid for getting advice/consultancy – but expenditure in this case was only in respect of representation before the ITAT – such legal expenses will stand covered by the provisions of Section 80VV of the Act – deduction not allowable - order of tribunal is justified

5 **2008 TMI - 30566 - PUNJAB AND HARYANA HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus PORRITS AND SPENCER (ASIA) LTD.

Dated: 30-10-2006

Sections - 080VV, 037, 010(2),

Legal charges - Whether Tribunal was right in holding that the legal charges paid to M/s. A. F. Ferguson and Co., were not hit by section 80VV, and were not subject to the ceiling fixed u/s 80VV – since payments were not made only for representation before the authorities but also for advice (consultancy) hence they are not hit by provisions of section 80VV – order of tribunal is justified – such legal expenses are allowable for deduction

7 **2008 TMI - 8428 - MADRAS High Court**

Commissioner of Income-Tax, Madras Versus A. S. Kuppa Ammal.

Dated: 01-02-1972

Sections - 010(2),

Assessee's account books relating to his transport business were burnt in a fire accident – allowability of claim for development rebate - mere loss of books of account cannot make the profit and loss account filed by the assessee unreliable for the purpose of s. 10(2)(vib), therefore claim for rebate is admissible

8 **2008 TMI - 6632 - ALLAHABAD High Court**

Makhanlal Ram Swarup Versus Commissioner of Income-Tax, Lucknow

Dated: 08-07-1965

Sections - 010(2), 024,

Whether the Tribunal was right in law in holding that an equitable apportionment of the expenses could be made by virtue of the provisions of Explanation 1 to section 24(1) - held that that the Income-tax Officer could have apportioned under section 10 of the Act the expenses between the money-lending and speculation business.

9 **2008 TMI - 6294 - SUPREME Court**

[Morvi Industries Limited Versus Commissioner of Income-Tax (Central), Calcutta]

Dated: 05-10-1971

Sections - 004, 010(2),

Unilateral relinquishment of managing agency commission after its accrual - appellant could claim deduction of the amounts under section 10(2)(xv) of the Act if the amounts had represented an expenditure laid out or expended wholly and exclusively for the business of the appellant - nothing to show that the amounts were relinquished for the purpose of the appellant's business

10 **2008 TMI - 5924 - SUPREME Court**

[Commissioner of Income-Tax, Uttar Pradesh Versus J. K. Hosiery Factory]

Dated: 19-03-1986

Sections - 010(2), 024,

Whether under the provisions of section 10(2)(vi), proviso (b), of the Income-tax Act, the unabsorbed depreciation of the unregistered firm in 1949-50 can be allowed as a deduction in the assessments of the partners of the registered firm in the assessment year 1950-51 - Held, yes

Cases for: 010(20),

1 **2009 TMI - 32383 - MADHYA PRADESH HIGH COURT**

[COMMISSIONER OF INCOME-TAX Versus KRISHI UPAJ MANDI SAMITI (No. 1)]

Dated: 08-01-2008

Sections - 012AA, 012A, 011, 002(15), 010(20), 010(29),

Krishi Upaj Mandi Samitis – exemption of market committees was withdrawn due to omission of clause (29) of section 10 - respondent-market committees filed applications for registration u/s 12A and 12AA and for grant of exemption certificate u/s 12AA(1)(b)(ii) - held that the respondent fulfil all the requirements of section 11 to get exemption and, therefore, are entitled to registration - hence, the Tribunal has rightly allowed the appeals filed by the krishi upaj mandi samitis

2 **2009 TMI - 32379 - MADHYA PRADESH HIGH COURT**

CIT Versus KRISHI UPAJ MANDI SAMITI (No.2) (and connected appeals)

Dated: 18-01-2008

Sections - 012AA, 012A, 011, 002(15), 010(20), 010(29),

Krishi Upaj Mandi Samitis – exemption of market committees was withdrawn due to omission of clause (29) of section 10 - respondent-market committees filed applications for registration u/s 12A and 12AA and for grant of exemption certificate u/s 12AA(1)(b)(ii) - held that the respondent fulfil all the requirements of section 11 to get exemption and, therefore, are entitled to registration - hence, the Tribunal has rightly allowed the appeals filed by the krishi upaj mandi samitis

3 **2008 TMI - 30330 - SUPREME COURT**

Agricultural Produce Market Committee, Narela, Delhi versus Commissioner of Income Tax & Anr.

Dated: 21-08-2008

Sections - 010(20), 002, 260A, 005, 022, 065, 010,

Appellant, Committee claimed exemption on the ground that it was a "local authority" - Agricultural Market Committee (AMC) is neither a Municipal Committee nor a District Board under the Explanation to Section 10(20) which was inserted w.e.f. 1.4.03, therefore, not entitled to exemption u/s 10(20) – it is not a sound rule of interpretation to seek the meaning of words used in an Income Tax Act, in the definition clause of other statutes – assessee’s appeal dismissed

4 **2008 TMI - 11815 - JHARKHAND High Court**

Adityapur Industrial Area Development Authority Versus Union of India And Others.

Dated: 08-05-2003

Sections - 010(20), 010(20A),

Obviously, the Explanation to section 10(20) of the Income-tax Act was introduced by the Finance Act, 2002, clarifying which are local authorities and excluding from them, corporations or authorities like the petitioner herein and the deletion of section 10(20A) of the Income-tax Act clearly indicates that the mischief sought to be remedied was to keep out corporations or authorities like the petitioner created under various enactments from claiming exclusion of their income under the Income-tax Act and to bring them within the purview of the Income-tax Act. If we apply the Heydons's case [1584] 3 Co Rep 7a rule it is clear that the intention in bringing in these amendments by the Finance Act of 2002 is to bring within taxation, the income of an authority constituted under any law enacted for the purpose of satisfying the need of housing accommodation or for the purpose of planning, development or improvement of the cities, towns and villages, like the petitioner-authority. Since we are not in a position to accept the contention of learned counsel for the petitioner that the income of the petitioner is exempt under article 289(1) of the Constitution of India, we are constrained to hold that the notification annexure P-1, is perfectly valid and cannot be successfully challenged on the ground urged by the petitioner-authority – Petition dismissed.

5 **2008 TMI - 11204 - ALLAHABAD High Court**

Krishi Utpadan Mandi Samiti Versus Union Of India And Another.

Dated: 05-04-2004

Sections - 010(20),

Local authority - Petitioner is the Krishi Utpadan Mandi Samiti, Bulandshahr, which has been constituted under the U.P. Krishi Utpadan Mandi Adhiniyam, 1964 - contention of learned counsel for the petitioner is that the petitioner is a local authority and is hence exempt from income-tax under section 10(20) - A bare perusal of the Explanation to section 10(20) shows that now four entities are local authorities for the purpose of section 10(20) name] Panchayat ; (ii) Municipality; (iii) Municipal Committee and District Bo (iv) Cantonment Board. Krishi Utpadan Mandi Samiti is not one of the en mentioned in the Explanation to section 10(20). - For the reasons given above, we find no merit in these petitions and they are dismissed.

Cases for: 010(20A),

1 **2009 TMI - 33683 - MADRAS HIGH COURT**

Commissioner of Income-tax and another Versus State Industrial Promotion Corporation of Tamil Nadu Ltd.

Dated: 24-07-2007

Sections - 010(20A),

Claim for benefit of exemption u/s 10(20A) - requirements of section 10(20A)- assessee, State Government undertaking engaged in the promotion of industrial activities and making provision for infrastructure to industries - It is an admitted case that the assessee is not an authority constituted in India by or under any law enacted - It is also admitted that the assessee has been incorporated under the provisions of the Companies Act, 1956. Hence, the assessee cannot claim the benefit u/s 10(20A)

2 **2009 TMI - 32347 - PUNJAB AND HARYANA HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus IMPROVEMENT TRUST

Dated: 31-10-2008

Sections - 002(15), 010(20A), 012AA, Assessee is an Improvement Trust constituted under the provisions of Punjab Town Improvement Trust Act, 1922 - principal object of the Trust is to bring about improvement in the town - On account of amendment dated 01.04.2003, the assessee applied for registration u/s 12A(b)(ii), which was declined – held that, since, assessee is carrying on activities of general welfare covered by the expression “any other object of general public utility” in Section 2(15), assessee is entitled to registration

3 **2008 TMI - 11815 - JHARKHAND High Court**

Adityapur Industrial Area Development Authority Versus Union of India And Others.

Dated: 08-05-2003

Sections - 010(20), 010(20A),

Obviously, the Explanation to section 10(20) of the Income-tax Act was introduced by the Finance Act, 2002, clarifying which are local authorities and excluding from them, corporations or authorities like the petitioner herein and the deletion of section 10(20A) of the Income-tax Act clearly indicates that the mischief sought to be remedied was to keep out corporations or authorities like the petitioner created under various enactments from claiming exclusion of their income under the Income-tax Act and to bring them within the purview of the Income-tax Act. If we apply the Heydons's case [1584] 3 Co Rep 7a rule it is clear that the intention in bringing in these amendments by the Finance Act of 2002 is to bring within taxation, the income of an authority constituted under any law enacted for the purpose of satisfying the need of housing accommodation or for the purpose of planning, development or improvement of the cities, towns and villages, like the petitioner-authority. Since we are not in a position to accept the contention of learned counsel for the petitioner that the income of the petitioner is exempt under article 289(1) of the Constitution of India, we are constrained to hold that the notification annexure P-1, is perfectly valid and cannot be successfully challenged on the ground urged by the petitioner-authority – Petition dismissed.

4 **2008 TMI - 10693 - BOMBAY High Court**

Vidarbha Irrigation Development Corporation Versus Additional Commissioner Of Income-Tax.

Dated: 27-07-2004

Sections - 010(20A),

Exemption under section 10(20A) – Computation of income under section 28 - (I) Whether the income of the assessee is not exigible to tax by virtue of the exemption under section 10(20A) of the Income-tax Act, 1961? - (II) Whether the assessing authority and the Tribunal were in gross error in holding that the business of the assessee has not commenced and as such its income under section 28 of the Income-tax

Act, 1961, cannot be computed? - "Whether the interest paid to bondholders, which has a direct nexus for earning interest from the bank, is an allowable deduction from the interest received from bank?" – Matter is remanded

5 **2008 TMI - 5610 - SUPREME Court**

Gujarat Industrial Development Corporation And Others Versus Commissioner of Income-Tax

Dated: 20-08-1997
Sections - 010(20A),

Whether industrial development could be enveloped within the expression "planning, development or improvement of cities, towns and villages or for both" in section 10(20A) - appellant, the Gujarat Industrial Development Corporation claimed exemption from taxation on two alternative premises, one under article 289(1) of the Constitution and the other clause (20A) of section 10 - held that entitled to exemption from the under section 10(20A)

6 **2008 TMI - 5168 - SUPREME Court**

Adityapur Industrial Area Development Authority Versus Union of India And Others

Dated: 03-05-2006
Sections - 010(20), 010(20A),

Provisions of the Income-tax Act, 1961 as they stood after the amendment (section 10(20A) had been omitted, an Explanation was added to section 10(20)) obliged the bank to deduct income-tax at source from the interest accrued on fixed deposit receipts of the appellant/authority - held that HC is right in concluding that the appellant/authority could not claim exemption from Union taxation under article 289(1) of the Constitution of India - impugned notice was valid

Cases for: 010(22), (22A), (22B)

1 **2009 TMI - 34921 - SUPREME COURT**

Assam State Text Book Production and Publication Corporation Limited Versus Commissioner of Income Tax, Gauhati-I

Dated: 20-10-2009
Sections - 010(22),

Educational Institution – section 10(22) of the 1961 Act - According to the AO, since the assessee, during the relevant years, had income exclusively from publication and selling of text books to the students, exemption under Section 10(22) as it stood at the material time, was not admissible. According to the AO, the assessee did not exist solely for educational purposes, particularly in view of Clause 21 of the Memorandum of Association which provides for distribution of dividends, hence, its income was not exempt – held that - the High Court, failed to consider (i) the historical background (ii) the source of funding, the share-holding pattern and aspects, such as Return on Investment; (iii) the letters issued by C.B.D.T. and (iv) the judgments – matter remanded back to AO instead of HC

2 **2009 TMI - 34650 - KARNATAKA HIGH COURT**

CIT AND ANOTHER Versus VIDYA SAGAR EDUCATIONAL TRUST (and vice versa)

Dated: 16-07-2008

Sections - 010(22), 010(23C), 272A,

Penalty u/s 272A(2)(e) - ITAT granted relief in part by holding that when the application was not filed by the assessee claiming exemption under sections 11 and 12 of the Act and when the Department has refused to grant exemption claimed by the assessee under sections 11 and 12 of the Act, the Revenue cannot invoke section 139(4A) of the Act and, therefore, held that levying of penalty invoking the provisions of section 272A(2)(e) of the Act was not proper – held that - of penalty levied under section 272A(2)(e) of the Act has to be re-examined by the Assessing Officer - assessing authority directed to consider the effect of grant of registration in favour of the assessee under section 12A of the Act and pass an appropriate order in accordance with law

3 **2009 TMI - 33701 - PUNJAB AND HARYANA HIGH COURT**

Regional Computer Centre Versus Commissioner of Income-tax

Dated: 05-07-2007

Sections - 010(22), 011,

Assessee, computer centre manned by the Government officers - providing consultancy, taking of projects and imparting training programme with the object of promoting computer/science - Claim of exemption u/s 11 as “charitable institution” and 10(22) as “educational institute” – assessee is earning income mainly thorough consultancy services and business is not carried by beneficiaries - Simply because the users of the services rendered were colleges, universities, Government departments and organizations, etc., would not necessarily lead to the conclusion that the assessee was an educational institution existing solely for educational purposes – exemption not granted u/s 10(22) and u/s 11

4 **2009 TMI - 32690 - BOMBAY HIGH COURT**

ANJUMAN HAMI-E-ISLAM AND OTHERS Versus CIT AND OTHERS

Dated: 10-08-2006

Sections - 010(22), 132,

Trust – search and seizure - challenge to order passed u/s 132(12) - contention is that they are exempt from provisions of IT Act because of exemption available to trust u/s 10(22) and, hence in appeal u/s 132(12), respondent was duty bound to record a finding about this status of the petitioners and as that has not been recorded, the said order is liable to be quashed - impugned order to the extent it refuses to consider plea of the petitioners for exemption u/s 10(22), is hereby quashed

5 **2008 TMI - 31112 - DELHI HIGH COURT**

DIRECTOR OF INCOME TAX (EXEMPTIONS) Versus DALMIA SHIKSHA PRATHISHTHAN

Dated: 19-02-2008

Sections - 010(22), 012A, 011,

Trust - exemption u/s 10(22) – mere for the reason that assessee earned Rs. 9603 through sale of books, it cannot be construed that assessee didn't exist solely for educational purposes but for the profit motive – if there is no change in activities, mode of investment/functioning, then exemption cannot be denied for any subsequent year – moreover in CBDT circular no. 712 there is no obligation that an education institution must invest its funds in the modes specified in section 11(5)

6 **2008 TMI - 31091 - BOMBAY HIGH COURT**

DIRECTOR OF INCOME-TAX (EXEMPTIONS) Versus NATIONAL SAFETY COUNCIL

Dated: 22-01-2008

Sections - 010(22),

Assessee, National Safety Council, a society registered under the Societies Registration Act & Bombay Public Trust Act – main objects of the assessee is to educate the public in regard to safety, protection - it would be unreal to hold that the assessee society was only a financing body & would not come within the scope of "other educational institution" as specified in Section 10(22) - almost entire income has been utilised for the purpose of its objects – exemption u/s 10(22) cannot be denied

7 **2008 TMI - 30481 - PUNJAB AND HARYANA HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus KHALSA RURAL HOSPITAL AND NURSING TRAINING INSTITUTE

Dated: 04-02-2008

Sections - 010(22), 260A, 011, 012, 143,

Educational institution - Nothing on record to show that the assessee's trust was charging any capitation fee - verbal admission during the course of assessment proceedings by the managing director of the trust cannot be relied upon – moreover there is no irregularity in the accounts of the trust - no document to show that the trust is being run for any purpose of profit – exemption allowable u/s 10(22)

2008 TMI - 12465 - MADRAS High Court

Director of Income Tax (Exemptions) Versus A. M. M. Medical Foundation.

Dated: 08-11-2001

Sections - 010(22A),

Medical Institution, Exemption - The assessee runs a hospital. For the assessment year 1986-87, the assessee was denied exemption that had been claimed by it under section 10(22A) of the Income-tax Act, 1961. The denial was on the ground that in the view of the Assessing Officer, section 10(22A) required the claimant to be the hospital and not the foundation which ran the hospital. - The question referred to us is, therefore, answered in favour of the assessee and against the Revenue.

8 **2008 TMI - 11804 - MADRAS High Court**

Director of Income-tax (Exemptions) Versus A. M. M. Hospitals And Medical Benefit Society.

Dated: 20-03-2003

Sections - 010(22A),

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the Commissioner was not justified in setting aside the order of the Commissioner of Income-tax (sic) under section 263 of the Income-tax Act for the assessment years 1985-86 to 1987-88 and in directing the Assessing Officer to restrict the exemption under section 10(22A) only to that income which is directly received from the medical institution under section 10(22A)?" - The question is answered in favour of the assessee and against the Revenue.

9 **2008 TMI - 9874 - DELHI High Court**

Director of Income-Tax (Exemption) Versus Arunodya.

Dated: 24-11-2005

Sections - 010(22A), 011, 254,

Power of tribunal – additional ground - Assessing Officer denied the benefit of section 11 to the assessee on the ground that the assessee had violated the provisions of sections 13(1)(c)(ii) and 13(1)(d) of the Act. In appeal before the Commissioner of Income-tax the assessee appears to have alternatively claimed benefit under section 10(22A) of the Act which too was rejected by the Commissioner. In a further appeal before the Tribunal the assessee was allowed to urge the additional claim for benefit under section 10(22A) of the Act in exercise of the Tribunal's power under rule 11 of the Income-tax (Appellate Tribunal) Rules, 1963. - Inasmuch as the Tribunal had allowed the assessee to raise an additional ground and make a claim under the provisions of section 10(22A) it had not committed any error of law nor did the order passed by the Tribunal give rise to any substantial question of law

10 **2008 TMI - 4058 - DELHI HIGH COURT**

DIRECTOR OF INCOME-TAX (EXEMPTIONS) Versus ESCORTS CARDIAC DISEASES HOSPITAL SOCIETY

Dated: 24-01-2007

Sections - 010(22A), 011, 260A,

Assessee carries out laboratory tests and investigations as per the requirement of EHIRC(Escorts Heart Institute and Research Center) for which it receives payment - Since there is no change in the facts and circumstances from the A.Y. 1988-89 till 1997-98, we are of the view that the Revenue must follow a principle of consistency, and when it has granted the benefit of exemption u/s 10(22A) and 11, it cannot be permitted to deny exemption merely on basis of whims and fancies of AO

11 **2008 TMI - 4477 - SUPREME COURT OF INDIA**

AMERICAN HOTEL & LODGING ASSOCIATION EDUCATIONAL INSTITUTE Versus CBDT & OTHERS

Dated: 09-05-2008

Sections - 010(22), 012, 010(23C), 245Q, 011, R002CA, 010(20A), 010(22B), 012AA, 060, 063,

Appellant was a non-profit organization set up in USA. It had a branch office in India, to collect data and fees which was thereafter remitted to USA. It was allowed exemption u/s 10(22) upto 31.3.1998 before omission. Appellant made an application for exemption u/s 12(23C) but CBDT refused on the ground that the income is not being used in India. SC held that CBDT may put the condition as it may deem fit but can not reject the application on the ground that income is not applied in India.

1 **2008 TMI - 3604 - SUPREME COURT**

Asstt. Commissioner of Income Tax, Surat Versus Surat City Gymkhana

Dated: 03-04-2008

Sections - 010(23), 012A, 002(15),

Assessee claimed exemption under Section 10(23) on the basis that the objects of the respondent-assessee are exclusively charitable - AO rejected the claim - once trust is registered u/s 12A then AO can't make further probe into the objects of trust- since the department did not challenge the correctness of the judgment in the similar matter in another case - revenue appeal is dismissed

2 2008 TMI - 3690 - ORISSA HIGH COURT

JAGANNATH TEMPLE MANAGING COMMITTEE Versus CIT AND OTHERS

Dated: 11-10-2007

Sections - 010(23BBA), 142, 221, 201, 006, 194A, 246A, 139, 119, 199,

Petitioner is a body corporate with perpetual succession, created by the State Act – engaged in administration of temple – not statutorily required to file return nor tax is required to be deducted at source on interest on deposits in bank – circular 4/02 applicable - so section 10(23BBA) not applicable & exemption granted under this section is a total unconditional exemption – if demand is raised on bank to deduct tax at source then impugned committee has locus standi to file petition

Cases for: 010(23C),

1 **2010 TMI - 35470 - HIGH COURT OF PUNJAB AND HARYANA AT**

Pinegrove International Charitable Trust Versus Union of India and others

Dated: 29-01-2010

Sections - 010(23C),

Scope of exemption u/s 10(23C)(vi) read with rule 2CA - other educational institution - held that - (1) Merely because an institution has earned profit would not be deciding factor to conclude that the educational institution exists for profit. (2) The provisions of Section 10(23C)(vi) of the Act are analogues to the erstwhile Section 10(22) of the Act - To decide the entitlement of an institution for exemption under Section 10(23C)(vi) of the Act, the test of predominant object of the activity has to be applied by posing the question whether it exists solely for education and not to earn - The cases where exemption has been granted earlier and the assessments are complete with the finding that there is no contravention of the statutory provisions, need not be reopened. However, after grant of approval if it comes to the notice of the prescribed authority that the conditions on which approval was given, have been violated or the circumstances mentioned in 13th proviso exists, then by following the procedure envisaged in 13th proviso, the prescribed authority can withdraw the approval. (3) The capital expenditure wholly and exclusively to the objects of education is entitled to exemption and would not constitute part of the total income. (4) The educational institutions, which are registered as a Society, would continue to retain their character as such and would be eligible to apply for exemption under Section 10 (23C)(vi) of the Act. (5) Where more than 15% of income of an educational institution is accumulated on or after 01.04.2002, the period of accumulation of the amount exceeding 15% is not permissible beyond five years, provided the excess income has been applied or accumulated for application wholly and exclusively for the purpose of education. (6) The judgment of Uttrakhand High Court rendered in the case of M/s Queens Educational Society and the connected matters, is not applicable to cases fall within the provisions of Section 10(23C)(vi) of the Act. There are various reasons, which have been discussed in para 8.8 of the judgment, and the judgment of Allahabad High Court rendered in the case of City Montessori School [2009 -TMI - 33744 - ALLAHABAD HIGH COURT] lays down the correct law.

2 **2010 TMI - 35401 - ALLAHABAD HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus LUCKNOW PUBLIC EDUCATIONAL SOCIETY

Dated: 09-01-2009

Sections - 143, 011, 139, 010(23C),

Original return filed late claiming exemption u/s 10(23C) under bonafide belief – revised return claiming exemption u./s 11 - we are of the view that the Assessing Officer has treated the revised return as "non est" wrongly for the reason that the Assessing Officer himself has passed the order under section 143(3) on the basis of the original return where the assessee was legally entitled for the exemption under section 11, if not under section 10 (23C). The Department should not take advantage of the ignorance of the assessee as per the Central Board of Direct Taxes Circular No. 14 (XL-35)/1955 dated April 11, 1955, quoted in Parekh Brothers v. CIT. Hence, it was the duty of the Assessing Officer to ask information from the assessee at the time of scrutiny but he has not asked any information before completing the assessment under section 143(3) of the Act.

3 **2009 TMI - 34942 - DELHI HIGH COURT**

Digember Jain Society for Child Welfare Versus Director General of Income Tax (Exemptions)

Dated: 09-10-2009

Sections - 010(23C),

Exemption u/s 10(23C) - petitioner claims that it is a charitable society and is, thus, entitled to exemption under Section 10(23C)(vi) of the Income Tax Act, 1961 - Modern School in various cities like Faridabad, Noida, Vaishali and a school under the name "Delhi International Happy School – held that - a society or a trust or other similar body running educational institutions solely for educational purposes and having the overall object of not to make any profit can be regarded as 'other educational institution' even if some surplus arises from its activities - the petitioner society has mainly been formed with the objective of carrying out educational activity - even if the petitioner society states some other activities as per its object clause, the surplus arising from the educational activity will not be utilized for any other purpose, but solely for educational purpose – exemption u/s 10(23C)(vi) allowed

4 **2009 TMI - 34745 - ALLAHABAD HIGH COURT**

Shri Ram Murti Smarak Trust Versus Chief Commissioner of Income Tax

Dated: 08-10-2009

Sections - 010(23C),

Exemption u/s 10(23-C) – rejection of – place of service of notice – opportunity of being heard – Petitioner in the writ petition as well as in rejoinder affidavit has tried to contend that notice was served on the petitioners. It has been reiterated that the petitioners have got its head office at Lcuknow and the petitioner is assessed at Lucknow, as such there was no occasion for serving notice at Bareilly. Petitioner in the writ petition as well as in rejoinder affidavit has tried to contend that notice was served on the petitioners. It has been reiterated that the petitioners have got its head office at Lcuknow and the petitioner is assessed at Lucknow, as such there was no occasion for serving notice at Bareilly. - held that - as such liberty is given to the petitioner to approach the CCIT ventilating its grievances.

5 **2009 TMI - 34650 - KARNATAKA HIGH COURT**

CIT AND ANOTHER Versus VIDYA SAGAR EDUCATIONAL TRUST (and vice versa)

Dated: 16-07-2008

Sections - 010(22), 010(23C), 272A,

Penalty u/s 272A(2)(e) - ITAT granted relief in part by holding that when the application was not filed by the assessee claiming exemption under sections 11 and 12 of the Act and when the Department has refused to grant exemption claimed by the assessee under sections 11 and 12 of the Act, the Revenue cannot invoke section 139(4A) of the Act and, therefore, held that levying of penalty invoking the provisions of section 272A(2)(e) of the Act was not proper – held that - of penalty levied under section 272A(2)(e) of the Act has to be re-examined by the Assessing Officer - assessing authority directed to consider the effect of grant of registration in favour of the assessee under section 12A of the Act and pass an appropriate order in accordance with law

6 **2009 TMI - 34570 - DELHI HIGH COURT**

Jaypee Institute of Information Technology Society Versus Director General of Income Tax (Exemptions), Delhi

Dated: 21-08-2009

Sections - 010(23C),

Charitable Purpose – Exemption u/s 10(23C)(vi) – educational activities – other activities like “undertaking extra mural studies, extension programmes and field outreach activities to contribute to the development of society” – Held that - The petitioner Institute, admittedly, fulfils the requirement of imparting formal education by a systematic instruction, as noted above. If the same university introduces the courses with the objective of "greater interface with the society through extra mural, extension and field action related programmes", these are not the objectives independent of education but are aid to the education - The petitioner Institute fulfils all the requirements of Section 10(23C)(vi) of the Act and is, thus, entitled for grant of registration and consequently exemption under the aforesaid provision of the Act

7 **2009 TMI - 34467 - HIGH COURT OF DELHI**

ICAI Accounting Research Foundation & Anr. Versus Director General of Income Tax (Exemptions) & Ors.

Dated: 28-08-2009

Sections - 010(23C),

Meaning and Scope of Charitable Purpose - Institute of Chartered Accountants of India - Government projects were undertaken by the Petitioner Foundation, namely, that of Municipal Corporation of Delhi (MCD), Kolkata Municipal Corporation (KMC) project and Strengthening Rural Decentralization (SRD) project for research and consultancy work - Held that - there is not even an iota of doubt that the ICAI is involved in education and, thus, meets the description of charitable institution - It is hardly possible for a charitable trust to work with no source of income. - As long as the user of that money is charitable, then the exemption has to be granted - Merely because some remuneration was taken by the Petitioner Foundation for undertaking these projects would not alter the character of these projects, which remained research and consultancy work - The amended definition of charitable purpose would not alter this position - Direction/mandamus given to the department to accord requisite exemption to the Petitioner Foundation under Section 10(23C)(iv)

8 **2009 TMI - 33744 - ALLAHABAD HIGH COURT**

City Montessori School (Regd.) Versus The Union of India & 2 others

Dated: 29-05-2009

Sections - 010(23C),

Exemption u/s 10 (23C) - application for grant of approval of the prescribed authority u/s 10(23C)(vi) rejected by Chief Commissioner of Income Tax – petitioner assessee is a charitable institution which is engaged wholly for the purposes of education, especially when no material has been brought to prove that there was any element of personal profit - deposits/investments of surplus is permissible as per the proviso of Section 10(23C). Hence, assessee is entitled for the exemption u/s 10(23C)(vi) - impugned order is quashed

9 **2009 TMI - 33591 - DELHI HIGH COURT**

SURAJMAL MEMORIAL EDUCATION SOCIETY, NEW DELHI Versus DIRECTOR GENERAL OF INCOME TAX (EXEMPTIONS) and ANR.

Dated: 11-05-2009

Sections - 010(23C),

Denial of exemption under section 10(23C)(vi) and no renewal of exemption on the ground that the petitioner had not applied its income wholly and exclusively to objects for which it was set up - Petitioner claims that it had withdrawn amounts, credited to its principal, and thereafter paid sums to these two schools in cash – but there was no documentary proof - The Director General ordered to produce the books of account of the two schools - The petitioner failed to produce the books of accounts of those two schools and instead requested for issuance of summons under Section 131 - This request was turned down by the Director General. – Held that, this would indeed be a very dangerous precedent fraught with possibilities of harassment at the behest of the assessee, if, without any foundation the Department insists on a third party to produce its books of accounts – Petition dismissed

100 2009 TMI - 32738 - ORISSA HIGH COURT

ROLAND EDUCATIONAL AND CHARITABLE TRUST Versus CHIEF COMMISSIONER, INCOME-TAX

Dated: 17-09-2008

Sections - 010(23C), R002CA,

Educational institution – It filed an application for exemption u/s 10(23C)(vi) with another application for condonation of delay in presenting the application under section 10(23C) (vi) - Chief Commissioner refused to entertain and admit the application made u/s 10(23C)(vi) on the ground that it was filed belatedly & statute does not vest any power with him to condone the delay – held that there is no provision in IT Act to condone delay in filing application u/s10(23C)(vi)

Cases for: 010(23E),

1 2008 TMI - 30740 - MADRAS HIGH COURT

TAMILNADU MAGNESITE LTD. Versus DEPUTY COMMISSIONER OF INCOME-TAX

Dated: 03-07-2007

Sections - 143, 036, 043B, 028, 072, 035, 041, 010(23E),

Disallowance of the provisions for bonus - scope of power of AO conferred u/s 143(1), to make prima facie adjustment while computing the taxable income - AO had rightly added back the bonus provision, as the assessee had not paid the amount within the due date for filing the returns and accordingly – tribunal is justified in confirming the order of CIT that section 43B override section 36(1) - prima facie adjustment made u/s 143(1)(a) in respect of the bonus provision are valid

Cases for: 010(23G),

1 **2008 TMI - 31871 - AUTHORITY FOR ADVANCE RULINGS**

[M/s Rural Electrification Corporation Ltd., In re.,]

Dated: 23-12-2008
Sections - 036, 010(23G),

Swapping premium - applicant, PSU is registered as Non-Banking Financial Company by RBI to provide long-term finance to State Electricity Boards ¡V held that swapping premium is the profit derived from the business of providing long-term finance, hence merits allowance of the deduction u/s 36(1)(viii) - swapping premium can be termed as compensation for the breach of contract - disclosure of swapping premium in Balance Sheet as ¡¥other income¡¦ instead of business income is immaterial

Cases for: 010(25),

1 **2009 TMI - 32126 - HIGH COURT DELHI**

[C.I.T. versus D.C.M. LTD.]

Dated: 13-01-2009
Sections - 037, 014A, 010(25),

1 **2009 TMI - 33164 - AUTHORITY FOR ADVANCE RULINGS**

[Canoro Resources Limited, In re]

Dated: 23-04-2009
Sections - 184, 010(2A), 045, 002(31), 092, 092F, 245R,

Can a partnership firm formed between the applicant and an entity in Canada be granted status of ‘firm’ if it satisfies conditions u/s 184 – Held, yes - tax liability of the partnership in India, shall be @ 30 per cent plus applicable surcharge and cess in accordance with Finance Act – residential status of the firm is a question of fact, which can be determined by the AO at the relevant point of time - share of the partners in firm shall not be included in the total income of such partners

2 **2007 TMI - 2089 - HIGH COURT , GAUHATI**

[RADHA KRISHNA JALAN Versus COMMISSIONER OF INCOME-TAX]

Dated: 29-08-2007
Sections - 010(2A), 260A, 143, 147, 080HHC, 080E, 081, 184, 185, 184, 167A, 167B, 086, 067A, 022, 029, 002(31), R002,

Sub-partnership - Assessee claimed exemption u/s 10(2A) on account of share received from firm - Held that assessee claim was correct and allowed

3 **2008 TMI - 3950 - SUPREME COURT**

[Union of India & Versus Belgachi Tea Co. Ltd. & Others]

Dated: 09-05-2008
Sections - R008, 010(30), 002(1),

Tax on Income from sale of green tea leaves without processing can not be subject to Income Tax Act, 1961. Income from sale of processed tea shall be subject to Income Tax Act, 1961, @40% and State Income Tax (Bengal Agricultural Income Tax) @ 60%. Under Constitution it clear that the State Legislature has exclusive jurisdiction to legislate in respect of taxes on agricultural income; and in respect of taxes on other income, it is Parliament alone which can legislate.

Cases for: 010B,

1 **2010 TMI - 35383 - MADRAS HIGH COURT**

The Commissioner of Income-tax, Madurai. Versus M/s. Ramco Industries Ltd., Rajapalayam.

Dated: 07-12-2009
Sections - 010B, 234D,

Deduction u/s 10B – Interest u/s 234D – Held that - The exact mistake of the audit party was that after its stand that the book depreciation relating to all the units should be added back in the memo of total income, but it omitted to consider the fact that the assessee would be entitled to income tax depreciation in respect of all the units whereas the company had claimed only income tax depreciation of other units except 10B unit. This is the mistake committed by the audit party and even though the proper and correct reply was submitted by the assessee, the assessing officer, without due application of mind, revised the assessment order - the revenue is not able to establish that the view taken by the Commissioner of Income Tax (Appeals) and confirmed by the Tribunal is not in accordance with law. So is the issue with regard to section 234D penalty. The Commissioner of Income tax (Appeals) has observed that section 234D of the Act is applicable only where any refund is granted to the assessee under section 143(1) of the act and the same is payable back to the department on completion of the assessment under section 143(3) of the Act. The assessing officer has not granted refund under section 143(1) of the Act and in the circumstances section 234D is not applicable – decided in favor of assessee

2 **2009 TMI - 34170 - BOMBAY HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus FATEH GRANITE PVT. LTD

Dated: 02-03-2009
Sections - 010B,

Industrial Undertaking - The expression “manufacture” or “production” are different expressions and the word “production” has a wider meaning - the word “production” under section 10B considering similar expression in section 80IB will have to be given this wider meaning, considering that the expressions are not defined in the Act but the expressions are used in the same Act. The only difference between section 80-IB and section 10B is that section 10B applicable to a 100 per cent. export oriented unit, whereas section 80-IB can be in respect of any unit – held that the cutting, polishing and sizing granites amounted to either manufacturing or processing and accordingly, the assessee was entitled for deduction under section 10B of the Income-tax Act.

3 **2009 TMI - 32059 - HIGH COURT RAJASTHAN**

C.I.T. UDAIPUR Versus M/S HYCON INDIA LTD. UDAIPUR

Dated: 20-08-2008

Sections - 010B,

Entitlement to claim exemption u/s 10B on the interest income earned from M/s Wolkem India Ltd.(sister concerrn) – assessee's submission that income was the result of business transactions between the assessee and seller, and therefore, it clearly falls within the definition of "Profits and Gains" and therefore, the assessee was entitled to exemption under section 10B, is acceptable – revenue's appeal are dismissed – tribunal was justified in granting exemption

4 **2008 TMI - 31911 - PUNJAB AND HARYANA HIGH COURT**

VIKAS W.S.P. LTD. Versus COMMISSIONER OF INCOME-TAX

Dated: 11-09-2008

Sections - 010B, 145,

AO made addition on account that assessee who is engaged in manufacture of Gaur Gum Pulverized, has transferred guar splits at rate much lower than the market rate - AO can, from the material on record, reject a particular claim in the return unless the decision of AO can be held to be erroneous – therefore finding recorded by AO to the extent the same has been affirmed by the CIT (A) as well as by the ITAT, unless shown to be perverse, will be a finding of fact – assessee's appeal dismissed

5 **2008 TMI - 31810 - DELHI HIGH COURT**

COMMISSIONER OF INCOME TAX DELHI –VI Versus INTEGRATED DATABASES INDIA LTD.

Dated: 12-12-2008

Sections - 263, 080IA, 010B, 080HHB, 080J,

Interpretation of S. 10B (5) which is virtually identical to the provisions of Section 80IA (7) as also 80HHB (3) (ia) - Denial of claim for deduction u/s 80-IA by Commissioner (A) - held that as long as the audit report is filed before the framing of the assessment, the provisions of Section

80IA (7) would be complied with inasmuch as the same are directory and not mandatory – tribunal's order require no interference – revenue's appeal dismissed

6 **2008 TMI - 31807 - HIGH DELHI COURT**

COMMISSIONER OF INCOME TAX DELHI – VI Versus WEB COMMERCE (INDIA) PVT. LTD.

Dated: 12-12-2008

Sections - 010B, 080J, 080HHB, 080IA, 010A,

Interpretation with regard to the provisions of Section 10B (5) which is virtually identical to the provisions of Section 80IA (7) as also 80HHB (3) (ia). It is also identical to the erstwhile provisions of Section 80J(6A) - held that as long as the audit report is filed before the framing of the assessment, the provisions of Section 80IA (7) would be complied with inasmuch as the same are directory and not mandatory - No substantial question of law arises – revenue's appeal dismissed

7 **2008 TMI - 30865 - HIGH COURT DELHI**

COMMISSIONER OF INCOME TAX, DELHI-II versus MOSER BAER INDIA LTD.

Dated: 22-09-2008

Sections - 010A, 010B,

Export – AO denied exemptions u/s 10A/10B on ground that assessee's direct exports were less than 75% of the total sales - AO did not accept the assessee's explanation that the stock transfers to his Rotterdam unit were actually export sales - Tribunal hold that stock which had been transferred had actually been sold by the unit and therefore, would have to be construed as actual exports by the said units of the assessee - pure finding of fact – exemption allowed – revenue appeal dismissed

8 **2008 TMI - 30800 - PUNJAB AND HARYANA HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus MAHAVIR SPINNING MILLS LTD.

Dated: 07-02-2008

Sections - 010B, 260A, 143, 036, 037,

Deduction to profit derived from export - Unit during the F.Y 1994-95 got converted into a 100 % EOU with the permission of the Department of Industrial Development – Revenue plea that exemption is not available to a unit formed by splitting up or the reconstruction of the business already in existence, not acceptable - exemption u/s 10B will be given from & after the date of approval of the unit as 100% EOU - Circular 1/05 dated 6-1-05, is clarificatory so same is binding on Department also

Cases for: 010C,

1 **2009 TMI - 32461 - BOMBAY HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus KOODATHIL KALLYATAN AMBUJAKSHAN

Dated: 04-07-2008

Sections - 010C, R002BA,

Whether Tribunal was justified in holding that the amount received by the assessee under "Optional Early Retirement Scheme of RBI" is eligible for exemption u/s 10(10C) – assessee's submission that scheme satisfies all the requirement, of both section 10(10C) as also Rule 2BA, is acceptable – therefore, amounts upto 5 lakh entitlesd to exemption u/s 10 (10C) - and for the amount in excess of Rs.5 lac, the assessee would be entitled to the benefits u/s 89 in addition to the benefits u/s 10(10C)

2 **2008 TMI - 3377 - MADRAS HIGH COURT**

SELVI J. JAYALALITHA, V. K. SASIKALA, SASI ENTERPRISES Versus CIT

Dated: 02-12-2006

Sections - 278E, 276CC, 139, 271, 142, 106, 005, R087, 028B, 178A, 010C, 148, 147, 115WD, 115WH, 153A, 153, 271A, 271B, 272A, 272AA, 272B, 273, 273B, 276A, 276AB, 276B, 276DD, 276E, 270, 133B, 143, 142A, 098B,

Validity of sec. 278E – Sec. 278E can't be said violate article 14, 20 or 21 of the constitution by mere fact that impugned section presume the culpable mental state of assessee – hence prosecution on basis of impugned provision for willful failure to file return is valid.

3 **2007 TMI - 2123 - ITAT, BANGALORE—SPECIAL BENCH**

AZTEC SOFTWARE AND TECHNOLOGY SERVICES LTD. Versus ASSISTANT COMMISSIONER OF INCOME-TAX

Dated: 12-07-2007

Sections - 092C, 040A, 092CA, 092, 010AA, 003, 094, 154, 133, 131, 028, 044DA, 245E, 245C, 245D, 245F, 142, 144A, 136, 143, 139, 147, 119, 092F, 092D, 092, R010B, R010A, R010C, R010D, 092B, 092E, 010A, 010B, 234A, 234B, 052, 271AA, 271G, R046A,

For making adjustments u/s 92C(3)(a) to (d), AO need not required to demonstrate before the assessee - The provision of Sec 40A is not applicable here - Further tribunal decided upto the matter related to

"ARM'S LENGTH PRICE" and nature of amount paid as advance under lease agreement etc.

Cases for: 011,

1 **2010 TMI - 35401 - ALLAHABAD HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus LUCKNOW PUBLIC EDUCATIONAL SOCIETY

Dated: 09-01-2009

Sections - 143, 011, 139, 010(23C),

Original return filed late claiming exemption u/s 10(23C) under bonafide belief – revised return claiming exemption u./s 11 - we are of the view that the Assessing Officer has treated the revised return as “non est” wrongly for the reason that the Assessing Officer himself has passed the order under section 143(3) on the basis of the original return where the assessee was legally entitled for the exemption under section 11, if not under section 10 (23C). The Department should not take advantage of the ignorance of the assessee as per the Central Board of Direct Taxes Circular No. 14 (XL-35)/1955 dated April 11, 1955, quoted in Parekh Brothers v. CIT. Hence, it was the duty of the Assessing Officer to ask information from the assessee at the time of scrutiny but he has not asked any information before completing the assessment under section 143(3) of the Act.

2 **2010 TMI - 35379 - MADRAS HIGH COURT**

Estate of M. M. Ispahani Versus The Commissioner of Income-tax, (Exemptions)-II

Dated: 14-12-2009

Sections - 011,

Accumulation of income u/s 11(2) – Charitable Trust - purpose of accumulation of the income - The assessing officer while deciding the application of income in Form No.10 was of the opinion that the purpose of accumulation mentioned therein are vague and not specific and hence declined the benefit of accumulation under Section 11(2) of the Act by following the decision of the jurisdictional High Court in the case of CIT Vs. M.Ct.M.Chettiar Family Trust [2008 -TMI - 14945 - MADRAS High Court] – held that - , the assessee was allowed to adduce fresh evidence to show the specific purpose for which the trust requires accumulation of the income - the order of the Tribunal is hereby set aside and the matter is remitted back to the assessing officer

3 **2010 TMI - 35287 - PUNJAB AND HARYANA HIGH COURT**

Commissioner of Income Tax-I, Chandigarh Versus M/s Simla Chandigarh Diocese Society

Dated: 19-11-2009
Sections - 011,

Exemption u/s 11(1)(a) / ii(1)(d) – CIT(A) and ITAT hold that assessee is entitled to benefits of exemption of income under section 11(1)(a) of the Income Tax Act – ITAT deleted the of Rs.37,89,983/- concluding that interest income is not 'income from other sources' and therefore part & parcel of accumulated funds – held that – similar issue has already has been ansered against the revenue ITA No.566 of 2008 titled Commissioner of Income Tax-I, Chandigarh vs. M/s Simla Chandigarh Diocese Society, Catholic Church, Sector 19-A, Chandigarh and ITA No.939 of 2008 titled Commissioner of Income Tax-II, Chandigarh vs. M/s Sarvhitkari Educational Society, Sector 21-B and now Sector 42, Chandigarh. – decided in favor of assessee

4 **2010 TMI - 35181 - HIGH COURT OF DELHI**

COMMISSIONER OF INCOME TAX Versus DHARAM SHILA CANCER RESEARCH FOUNDATION

Dated: 11-01-2010
Sections - 011, 012,

Benefit under section 11 and 12 – application of income for employees or relatives of employees - The sole grievance of the Revenue before the Tribunal was that the Commissioner of Income Tax (Appeals) had erred in directing the Assessing Officer to allow the benefits of Sections 11 and 12 of the Income Tax Act, 1961 to the assessee – held that - In a charitable activity incident of profit can be there but that would not goad any quasi judicial authority to say that society ceases to be a charitable society. The AO fail to point out any defects in the objects of society or in the means of achieving those objects. His only area of grievance is that income is resulting to the society by carrying out such activity. But again he fail to take into consideration that such income was only applied for the purpose of charity. The AO also pointed out that assessee has entered into contracts with the doctors in such a way that the hospital should not suffer any loss. – Benefit u/s 11 and 12 allowed

5 **2010 TMI - 35170 - HIGH COURT OF ALLAHABAD**

The Commissioner of Income Tax-II, Lucknow versus M/s. Krishi Utpadan Mandi Samiti, Barabanki and others

Dated: 04-12-2009
Sections - 011, 012A,

Deletion of additions - A.O. made the various additions, which were upheld by the first appellate authority. However, the Tribunal vide its impugned orders has observed that these entities were created under U.P. Krishi Utpadan Mandi Adhiniyam, 1964 and they are subject to provision of the Act and control of the Government. Finally, Tribunal treated these assessees as "Charitable Institutions" and deleted the addition made by the A.O. – held that - these institutions were accepted by this court as charitable institution for the assessment year 2003-04 and subsequent assessment years including the assessment years under consideration. Once, these assesses are declared "Charitable Institutions", their income is exempted from Income Tax. When income is exempted then there is no justification to make additions and the same are likely to be deleted.

6 **2010 TMI - 35169 - HIGH COURT OF ALLAHABAD**

Commissioner of Income Tax-I, Lucknow Versus Krishi Utpadan Mandi Samiti, Purva, Unnao

Dated: 02-12-2009

Sections - 011, 012A,

Scope of the term property u/s 11 - 'Krishi Utpadan Mandi Samiti' – w.e.f. 1.4.2003 change in the scope status of local authority withdrawn - For this purpose, necessary applications were made under Section 12-A which were rejected by the Commissioner of the Income Tax department but the said registration was granted by the Tribunal vide its impugned order – held that - after April 1, 1984, even if there is some profit in the activity carried on by the trust/institution, so long as the dominant object is of general public utility, it cannot be said that the said trust/institution is not established for charitable purposes - the expression "property" used in Section 11 of the Act is of wide amplitude and it includes the business undertaking itself. - The word "property" in section 11 includes immovable and movable property like money, shares, securities etc. Therefore, where a trust/institution fulfills all the conditions mentioned in Section 12A/12AA, registration cannot be denied on the ground that some conditions of Section 11 and 12 are not fulfilled.

7 **2009 TMI - 34609 - RAJASTHAN HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus PARAMHANS ASHRAM

Dated: 17-02-2009

Sections - 011,

Exemption u/s 11 – Charitable Trust - as per the trust deed, the trust is involved in the activities of maintenance of the existing dharamshalas for help of members of the Agarwal community and other widows and children. The objects of the trust are charitable and religious and the activities of the trust are in conformity with the aims and objects of the trust. It has been registered with the Charity Commissioner, Government of Rajasthan – Held that - sole purpose of the trust was to run a dharamshala which is an object of general public utility and so when this was the sole object, the income derived therefrom in the shape of the rent from the dharamshala is exempt under section 11 read with section 2(15) of the Act – reference answered in favor of assessee and against the revenue.

8 **2009 TMI - 34382 - PUNJAB AND HARYANA HIGH COURT**

Commissioner of Income Tax-I, Chandigarh Versus M/s Manav Mangal Society

Dated: 19-08-2009

Sections - 011,

Charitable Societies/Institutions – Application of Income – Exemption - Held that - Once exclusion contemplated under section 11(4A) is not applicable, the exemption had to be allowed as Sections 11(1), (2) and (3) become applicable even in respect of profits and gains.– Regarding accumulation of income – held that - Even if 85% income has not been applied in the manner laid down, it is not enough to disallow exemption unless there is a further condition of accumulation beyond contemplated period or not maintaining accounts or intimating the Assessing Officer as laid down. - Thus, while holding that the observation of the Tribunal that sub-section (1), (2), (3) or (3A) of Section 11 do not apply to the income falling under Section 11(4A) of the Act is erroneous, there is no error in the conclusion for holding the assessee eligible for exemption

9 **2009 TMI - 34376 - PUNJAB AND HARYANA HIGH COURT**

Commissioner of Income Tax-II, Chandigarh Versus M/s Sarvhitkari Education Society

Dated: 19-08-2009

Sections - 011,

Exemption u/s 11(1)(a) – capital expenditure incurred on fixed assets – application of income – Held that - There may be conceptual difference in the constitution of a Trust or any other Institution if such difference has relevance having regard to statutory scheme for exemption. In the present case, expression used in Section 11 (1) (a) is “income derived from property held under Trust” irrespective of the fact whether income is derived by a Trust or any other Institution. Requirement is only of holding the property under Trust. The Commissioner, referring to the definition of ‘person’ under Section 2 (31) of the Act, observed that neither society was specified as a separate category nor trust was specified as a separate category and both were covered by the expression ‘association of persons’ in clause (v) or by residue clause (vii). – Exemption allowed – appeal dismissed.

10 **2009 TMI - 34129 - ALLAHABAD HIGH COURT**

SMT. MALTI DEVI Versus TAX RECOVERY OFFICER AND ANOTHER

Dated: 09-01-2009

Sections - 222, 276, R011,

Recovery of Tax – Attachment and sale of property – Petition purchased property from father in laws who was defaulter and against whom recovery proceedings were initiated - the Commissioner of Income-tax has referred sub-rule (6) of rule 11 of Part I of the Second Schedule to the Income-tax Act, which provides that any claim or objection preferred by a party may institute a suit in a civil court to establish the right which he claims to the property in question. The said rule further provides that the order of the Tax Recovery Officer is conclusive subject to the result of the suit – commissioner's order as approved by the civil court upheld.

Cases for: 011A,

1 **2008 TMI - 30663 - DELHI HIGH COURT**

DABUR INDIA LIMITED Versus COMMISSIONER OF INCOME TAX

Dated: 01-09-2008

Sections - 260A, 143, 080HHC, 080IB, 080B, 080A, 080C, 080U, 080AB, 080H, 080HH, 080E, 003, 002(45), 004, 005, 006, 009, 014, 059, 028, 029, 030, 043A, 043D, 032, 031, 034, 035, 071, 072, 073, 036, 037, 011, 011A, 041,

Deduction under Section 80 HHC & 80IB claimed without deducting depreciation while arriving at eligible profits and gains - Profits and gains of a newly established undertaking have to be computed as per the provisions of section 29 to section 43A and if the assessee claims relief under Chapter VI-A of the Act, then it is not open to the assessee to disclaim depreciation allowance - claim for allowance of deduction without taking into consideration the current depreciation, is rejected

2 **2008 TMI - 12483 - ALLAHABAD High Court**

Plywood Products Versus Commissioner of Income-Tax.

Dated: 07-02-2000

Sections - 185, 256, R011A, R012,

Reference, Firm, Change In Constitution Of Firm - It was contended by learned counsel for the assessee that the Assessing Officer should have given an opportunity to the assessee to remove the defects in terms of section (2) of section 185. We have reproduced the provision of sub-section (2) of section 185 which patently show that the defects contemplated are of a procedural or clerical nature and the defects like the non-execution of the partnership within the accounting period or non-filing of the applications for registration/renewal within time are not defects which are capable of being cured or removed. - there is nothing on record to show what happened in the intervening assessment years, i.e., the assessment years 1982-83 and 1983-84. The Tribunal has proceeded on the basis that the grant of renewal of registration for the assessment years 1984-85 and 1985-86 is consequential to the grant of registration for the assessment year 1981-82 and the questions, as proposed, also adopt the same approach. Therefore, registration having not been allowed for the assessment year 1981-82, no question of renewal of registration for the aforesaid years would arise

Cases for: 012A,

1 **2010 TMI - 35389 - MADRAS HIGH COURT**

The Commissioner of Income Tax, Salem. Versus M/s. R.M.S.Trust, 65, Rangar Sannathi Street, Namakkal.

Dated: 07-12-2009

Sections - 012A, 012AA, 080G,

Registration of trust – old provisions of Section 12A versus new provisions of section 12AA - The assessee trust came to existence on 01.12.1995 claiming that the main object was providing medical facilities to the sick and handicapped and also provide medical education, training and research in the field. The Trust filed an application in Form 10A and 10B and 12A(a) and 80G of the Act for registration of the Trust under section 12AA and exemption under section 80G(vi) of the Income Tax Act on 10.03.2006. The application for registration was belated by more than 10 years for which condonation petition was filed stating that the delay was due to ignorance of law. On verification of the Trust deed along with its enclosures, the Commissioner of Income Tax noticed that the requisite clause indicating that any amendment to the trust deed would be carried out after obtaining approval from the Commissioner of Income Tax, has not been incorporated, and on that ground directed the assessee Trust to file an amended deed, which is duly registered along with notes on the activities of the Trust with regard to various expenses debited in Income and Expenditure Account for the years ending 31.03.2003, 31.03.2004 and 31.03.2005 by 15.09.2006 positively. The assessee Trust did not respond to the letter. Therefore, the Commissioner of Income Tax held that the assessee Trust was not entitled to registration under section 12AA and exemption under section 80G(vi) of the Act – ITAT allowed the appeal and remitted back the matter – held that - Requisition made by the Commissioner is a extra statutory requisition. – order of tribunal remitting back the order is correct.

2 **2010 TMI - 35170 - HIGH COURT OF ALLAHABAD**

The Commissioner of Income Tax-II, Lucknow versus M/s. Krishi Utpadan Mandi Samiti, Barabanki and others

Dated: 04-12-2009

Sections - 011, 012A,

Deletion of additions - A.O. made the various additions, which were upheld by the first appellate authority. However, the Tribunal vide its impugned orders has observed that these entities were created under U.P. Krishi Utpadan Mandi Adhiniyam, 1964 and they are subject to provision of the Act and control of the Government. Finally, Tribunal treated these assessees as "Charitable Institutions" and deleted the addition made by the A.O. – held that - these institutions were accepted by this court as charitable institution for the assessment year 2003-04 and subsequent assessment years including the assessment years under consideration. Once, these assesses are declared "Charitable Institutions", their income is exempted from Income Tax. When income is exempted then there is no justification to make additions and the same are likely to be deleted.

3 **2010 TMI - 35169 - HIGH COURT OF ALLAHABAD**

Commissioner of Income Tax-I, Lucknow Versus Krishi Utpadan Mandi Samiti, Purva, Unnao

Dated: 02-12-2009

Sections - 011, 012A,

Scope of the term property u/s 11 - 'Krishi Utpadan Mandi Samiti' – w.e.f. 1.4.2003 change in the scope status of local authority withdrawn - For this purpose, necessary applications were made under Section 12-A which were rejected by the Commissioner of the Income Tax department but the said registration was granted by the Tribunal vide its impugned order – held that - after April 1, 1984, even if there is some profit in the activity carried on by the trust/institution, so long as the dominant object is of general public utility, it cannot be said that the said trust/institution is not established for charitable purposes - the expression "property" used in Section 11 of the Act is of wide amplitude and it includes the business undertaking itself. - The word "property" in section 11 includes immovable and movable property like money, shares, securities etc. Therefore, where a trust/institution fulfills all the conditions mentioned in Section 12A/12AA, registration cannot be denied on the ground that some conditions of Section 11 and 12 are not fulfilled.

4 **2009 TMI - 34960 - MADHYA PRADESH HIGH COURT**

[COMMISSIONER OF INCOME-TAX Versus DAWOODI BOHRA JAMAT]

Dated: 22-06-2009

Sections - 012A, 012AA, 013,

Religious trust - Charitable Purpose – Exemption - applicability of the provisions of section 13(1)(b) can or cannot be looked into at the time of examining the registration application under section 12A – held that - all the objects of the assessee were religious in nature because the same are supported by the writings in Holy Quran and as such the assessee-trust following the directions from the Holy Quran on the religious occasions, religious education and religious activities for Dawoodi Bohra community, had been organizing various activities in pursuance with the objects of the trust - the finding of the CIT in the impugned order that the objects of the assessee are charitable in nature is not justified – ITAT hold that respondent is a public religious trust – the provisions of section 13 (1)(b) of the Act will not be applicable because the same are applicable in the case of the trust established for charitable purposes. - Section 13(1)(b) is attracted in the case of income of the trust for charitable purpose of a community or caste, which is not the case here.

5 **2009 TMI - 34673 - ALLAHABAD HIGH COURT**

[OXFORD ACADEMY FOR CAREER DEVELOPMENT Versus CHIEF COMMISSIONER OF INCOME-TAX AND OTHERS]

Dated: 04-12-2008

Sections - 012A,

Cancellation of registration u/s 12A – Charitable Institution – Held that - , the assessee is preparing students by providing coaching/guidelines to get admissions in professional institutions to pursue their studies. The sense in which the word "education" has been used in section 2(15) of the Act is the systematic instruction, schooling or training given to the young in preparation for the work of life. Similarly, extending financial assistance/scholarship, etc., to students for their educational purpose would squarely and fairly fall within the connotation of "education" - after registration, further probe into object is not permissible – order for cancellation of registration quashed – exemption restored.

6 **2009 TMI - 32982 - BOMBAY HIGH COURT**

[Sinhgad Technical Education Versus Asstt. Commissioner of Income-tax]

Dated: 30-01-2009

Sections - 012A, 013,

Trust – huge demands - Whether C.I.T. (A) is justified in declining to grant absolute stay of demands during pendency of appeals – CIT (A) directed the petitioner to pay 10% of the demands i.e.1.5 crore now and remaining till disposal of appeal - fact that the undisclosed income on account of donation been taxed in the hands of trust as well as the principle trustee, order of C.I.T. (A) is modified - stay of recovery shall be subjected to furnishing of bank guarantee in sum of 1.50 crore

7 **2009 TMI - 32383 - MADHYA PRADESH HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus KRISHI UPAJ MANDI SAMITI (No. 1)

Dated: 08-01-2008

Sections - 012AA, 012A, 011, 002(15), 010(20), 010(29),

Krishi Upaj Mandi Samitis – exemption of market committees was withdrawn due to omission of clause (29) of section 10 - respondent-market committees filed applications for registration u/s 12A and 12AA and for grant of exemption certificate u/s 12AA(1)(b)(ii) - held that the respondent fulfil all the requirements of section 11 to get exemption and, therefore, are entitled to registration - hence, the Tribunal has rightly allowed the appeals filed by the krishi upaj mandi samitis

8 **2009 TMI - 32379 - MADHYA PRADESH HIGH COURT**

CIT Versus KRISHI UPAJ MANDI SAMITI (No.2) (and connected appeals)

Dated: 18-01-2008

Sections - 012AA, 012A, 011, 002(15), 010(20), 010(29),

Krishi Upaj Mandi Samitis – exemption of market committees was withdrawn due to omission of clause (29) of section 10 - respondent-market committees filed applications for registration u/s 12A and 12AA and for grant of exemption certificate u/s 12AA(1)(b)(ii) - held that the respondent fulfil all the requirements of section 11 to get exemption and, therefore, are entitled to registration - hence, the Tribunal has rightly allowed the appeals filed by the krishi upaj mandi samitis

9 **2008 TMI - 31773 - HIGH COURT DELHI**

DIRECTOR OF INCOME TAX DELHI (EXEMPTION) versus JAPAN CHAMBER OF COMMERCE & INDUSTRY IN INDIA

Dated: 25-11-2008

Sections - 011, 012, 012A, 012AA,

Society - registration u/s 12A - held that the society's motive of promotion of trade and commerce and industry between India and Japan would undoubtedly also benefit the Indian public at large – tribunal was justified in directing the revenue to accord registration to the assessee society - question of exemption under Section 11 and 12 is to be dealt with separately by the Assessing Officer at the time of assessment for each year - No substantial question of law arises - appeal is dismissed

10 **2008 TMI - 31112 - DELHI HIGH COURT**

DIRECTOR OF INCOME TAX (EXEMPTIONS) Versus DALMIA SHIKSHA PRATHISHTHAN

Dated: 19-02-2008

Sections - 010(22), 012A, 011,

Trust - exemption u/s 10(22) – mere for the reason that assessee earned Rs. 9603 through sale of books, it cannot be construed that assessee didn't exist solely for educational purposes but for the profit motive – if there is no change in activities, mode of investment/functioning, then exemption cannot be denied for any subsequent year – moreover in CBDT circular no. 712 there is no obligation that an education institution must invest its funds in the modes specified in section 11(5)

Cases for: 012AA,

1 **2010 TMI - 35389 - MADRAS HIGH COURT**

The Commissioner of Income Tax, Salem. Versus M/s. R.M.S.Trust, 65, Rangar Sannathi Street, Namakkal.

Dated: 07-12-2009

Sections - 012A, 012AA, 080G,

Registration of trust – old provisions of Section 12A versus new provisions of section 12AA - The assessee trust came to existence on 01.12.1995 claiming that the main object was providing medical facilities to the sick and handicapped and also provide medical education, training and research in the field. The Trust filed an application in Form 10A and 10B and 12A(a) and 80G of the Act for registration of the Trust under section 12AA and exemption under section 80G(vi) of the Income Tax Act on 10.03.2006. The application for registration was belated by more than 10 years for which condonation petition was filed stating that the delay was due to ignorance of law. On verification of the Trust deed along with its enclosures, the Commissioner of Income Tax noticed that the requisite clause indicating that any amendment to the trust deed would be carried out after obtaining approval from the Commissioner of Income Tax, has not been incorporated, and on that ground directed the assessee Trust to file an amended deed, which is duly registered along with notes on the activities of the Trust with regard to various expenses debited in Income and Expenditure Account for the years ending 31.03.2003, 31.03.2004 and 31.03.2005 by 15.09.2006 positively. The assessee Trust did not respond to the letter. Therefore, the Commissioner of Income Tax held that the assessee Trust was not entitled to registration under section 12AA and exemption under section

80G(vi) of the Act – ITAT allowed the appeal and remitted back the matter – held that - Requisition made by the Commissioner is a extra statutory requisition. – order of tribunal remitting back the order is correct.

2 **2009 TMI - 34960 - MADHYA PRADESH HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus DAWOODI BOHRA JAMAT

Dated: 22-06-2009

Sections - 012A, 012AA, 013,

Religious trust - Charitable Purpose – Exemption - applicability of the provisions of section 13(1)(b) can or cannot be looked into at the time of examining the registration application under section 12A – held that - all the objects of the assessee were religious in nature because the same are supported by the writings in Holy Quran and as such the assessee-trust following the directions from the Holy Quran on the religious occasions, religious education and religious activities for Dawoodi Bohra community, had been organizing various activities in pursuance with the objects of the trust - the finding of the CIT in the impugned order that the objects of the assessee are charitable in nature is not justified – ITAT hold that respondent is a public religious trust – the provisions of section 13 (1)(b) of the Act will not be applicable because the same are applicable in the case of the trust established for charitable purposes. - Section 13(1)(b) is attracted in the case of income of the trust for charitable purpose of a community or caste, which is not the case here.

3 **2009 TMI - 34670 - UTTARAKHAND HIGH COURT**

CIT Versus NATIONAL INSTITUTE OF AERONAUTICAL ENGINEERING EDUCATIONAL SOCIETY

Dated: 15-07-2009

Sections - 002(15), 012AA,

Charitable Purpose – Registration u/s 12AA – ITAT held that the assessee carded on activity for charitable purpose in terms of section 2(15) and directed the Commissioner of Income-tax to grant registration under section 12AA of the Act to the assessee society Held that - that mere imparting education for primary purpose of earning profits cannot be said to be a charitable activity - , in the expression “charitable purpose”, ”charity” is the soul of the expression - Mere trade or commerce in the name of education cannot be said to be a charitable purpose. And the Commissioner Income-tax has to satisfy himself as provided under sect 12AA of the Act before allowing the registration – order of ITAT is not correct – decided in favor of revenue.

4 **2009 TMI - 32383 - MADHYA PRADESH HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus KRISHI UPAJ MANDI SAMITI (No. 1)

Dated: 08-01-2008

Sections - 012AA, 012A, 011, 002(15), 010(20), 010(29),

Krishi Upaj Mandi Samitis – exemption of market committees was withdrawn due to omission of clause (29) of section 10 - respondent-market committees filed applications for registration u/s 12A and 12AA and for grant of exemption certificate u/s 12AA(1)(b)(ii) - held that the respondent fulfil all the requirements of section 11 to get exemption and, therefore, are entitled to registration - hence, the Tribunal has rightly allowed the appeals filed by the krishi upaj mandi samitis

5 **2009 TMI - 32379 - MADHYA PRADESH HIGH COURT**

CIT Versus KRISHI UPAJ MANDI SAMITI (No.2) (and connected appeals)

Dated: 18-01-2008

Sections - 012AA, 012A, 011, 002(15), 010(20), 010(29),

Krishi Upaj Mandi Samitis – exemption of market committees was withdrawn due to omission of clause (29) of section 10 - respondent-market committees filed applications for registration u/s 12A and 12AA and for grant of exemption certificate u/s 12AA(1)(b)(ii) - held that the respondent fulfil all the requirements of section 11 to get exemption and, therefore, are entitled to registration - hence, the Tribunal has rightly allowed the appeals filed by the krishi upaj mandi samitis

6 **2009 TMI - 32347 - PUNJAB AND HARYANA HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus IMPROVEMENT TRUST

Dated: 31-10-2008

Sections - 002(15), 010(20A), 012AA,

Assessee is an Improvement Trust constituted under the provisions of Punjab Town Improvement Trust Act, 1922 - principal object of the Trust is to bring about improvement in the town - On account of amendment dated 01.04.2003, the assessee applied for registration u/s 12A(b)(ii), which was declined – held that, since, assessee is carrying on activities of general welfare covered by the expression “any other object of general public utility” in Section 2(15), assessee is entitled to registration

7 **2008 TMI - 31773 - HIGH COURT DELHI**

DIRECTOR OF INCOME TAX DELHI (EXEMPTION) versus JAPAN CHAMBER OF COMMERCE & INDUSTRY IN INDIA

Dated: 25-11-2008

Sections - 011, 012, 012A, 012AA,

Society - registration u/s 12A - held that the society's motive of promotion of trade and commerce and industry between India and Japan would undoubtedly also benefit the Indian public at large – tribunal was justified in directing the revenue to accord registration to the assessee society - question of exemption under Section 11 and 12 is to be dealt with separately by the Assessing Officer at the time of assessment for each year - No substantial question of law arises - appeal is dismissed

8 **2008 TMI - 30693 - MADHYA PRADESH HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus SHIYA DAWOODI BOHARA JAMAT

Dated: 17-10-2007

Sections - 260A, 012A, 012AA, 254,

Charitable trust – assessee filed application for registration of trust which was rejected by CIT – in appeal assessee filed certain additional documents before tribunal - Revenue challenge that ITAT was not justified in considering the additional grounds while remanding the matter to CIT for fresh consideration – held that appellate court had the jurisdiction to remand the matter – addition grounds can be filed even at the appellate stage if those are necessary for deciding the controversy

9 **2008 TMI - 11833 - PATNA High Court**

St. Paul's Anglo Indian Educational Society Versus Income-Tax Appellate Tribunal And Others.

Dated: 26-02-2003

Sections - 012AA,

Application filed by the petitioner for registration as charitable trust - In our view, the petitioner was deprived of reasonable opportunity to produce all the relevant documents due to time constraint - Accordingly, we are of the view that there, is denial of reasonable opportunity of hearing to the petitioner in this case. Accordingly, both the orders, as contained in annexures 2/A and 3 are set aside and the matter is remitted to the Commissioner of Income-tax, Bhagalpur, to take fresh decision in accordance with law after giving reasonable opportunity of hearing to the petitioner. - we have not expressed any opinion about the merits of the claim which is for the authorities to consider in accordance with law.

10 **2008 TMI - 9809 - KARNATAKA High Court**

Sanjeevamma Hanumanthe Gowda Charitable Trust Versus Director Of Income-Tax (Exemption).

Dated: 13-03-2006
Sections - 012A, 012AA,

Charitable trust - registration u/s 12AA - "Whether the authorities were justified in denying registration to the petitioner under section 12AA of the Income-tax Act, 1961, on the ground that the activities of the assessee are purely commercial in nature?" - Sub-section (3) of section 12AA of the Act provides that where a trust or an institution has been granted registration under clause (b) of sub-section (1) and subsequently the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution. – authorities have not kept in mind these mandatory provisions. They have not applied their mind in the way they are expected to, before passing the impugned orders – impugned order is set aside

Cases for: 012B,

1 **2008 TMI - 4563 - MADRAS HIGH COURT**

MADATHIL BROTHERS Versus DEPUTY COMMISSIONER OF INCOME-TAX

Dated: 23-10-2007
Sections - 068, R009B, R009A, 260A, 002(42A), 002(47), 053A, 002(14), 022, 009, 027, 053, 054, 045, 012B,

Capital gain arising on the transfer of capital assets has to be worked out from date of the agreement under which the assessee was put in possession of property, hence impugned capital gain are only long term capital gain – shares transfer transaction was found not genuine, loss not deductible as capital loss – genuineness of cash credits not proved, hence assessable – not proved that films were exhibited, hence loss relating to distribution of films not deductible – appeal partly allowed

2 **2007 TMI - 2120 - AUTHORITY FOR ADVANCE RULINGS**

JASBIR SINGH SARKAIUA, In re

Dated: 30-08-2007
Sections - 002(47), 045, 048, 054EB, 012B,

Chargeability of Income attributable to capital gains under collaboration agreement - Amount to be received in installments spread over years - Transfer within the meaning of Sec 2(47)(v) must be deemed to have taken place on the date of executing irrevocable GPA

Cases for: 013,

1 **2009 TMI - 34960 - MADHYA PRADESH HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus DAWOODI BOHRA JAMAT

Dated: 22-06-2009

Sections - 012A, 012AA, 013,

Religious trust - Charitable Purpose – Exemption - applicability of the provisions of section 13(1)(b) can or cannot be looked into at the time of examining the registration application under section 12A – held that - all the objects of the assessee were religious in nature because the same are supported by the writings in Holy Quran and as such the assessee-trust following the directions from the Holy Quran on the religious occasions, religious education and religious activities for Dawoodi Bohra community, had been organizing various activities in pursuance with the objects of the trust - the finding of the CIT in the impugned order that the objects of the assessee are charitable in nature is not justified – ITAT hold that respondent is a public religious trust – the provisions of section 13 (1)(b) of the Act will not be applicable because the same are applicable in the case of the trust established for charitable purposes. - Section 13(1)(b) is attracted in the case of income of the trust for charitable purpose of a community or caste, which is not the case here.

2 **2009 TMI - 33706 - DELHI HIGH COURT**

Commissioner of Income-tax Versus Narinder Mohan Foundation

Dated: 05-10-2007

Sections - 011, 012, 013,

Charitable trust – exclusion from exemption - prohibited category of persons mentioned in section 13(3) have substantial interest in MMBL in which the funds of the assessee were invested and, therefore, the provisions of section 13(2)(h) were applicable – assessee-trust was not entitled to exemption on dividend income as stipulated under sections 11 and 12 - Tribunal was right in law in holding that shares being bonus shares of MMBL received by the assessee did not represent funds of the trust invested in the said concern for purposes of section 13(4)

3 **2009 TMI - 32982 - BOMBAY HIGH COURT**

Sinhgad Technical Education Versus Asstt. Commissioner of Income-tax

Dated: 30-01-2009

Sections - 012A, 013,

Trust – huge demands - Whether C.I.T. (A) is justified in declining to grant absolute stay of demands during pendency of appeals – CIT (A) directed the petitioner to pay 10% of the demands i.e.1.5 crore now and remaining till disposal of appeal - fact that the undisclosed income on account of donation been taxed in the hands of trust as well as the principle trustee, order of C.I.T. (A) is modified - stay of recovery shall be subjected to furnishing of bank guarantee in sum of 1.50 crore

4 **2009 TMI - 32475 - PUNJAB AND HARYANA HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus HARYANA C. M. RELIEF FUND

Dated: 15-12-2008
Sections - 011, 013,

Assessee is a registered society and is also registered u/s 12A - AO sought to tax interest income received by the assessee from the deposit in the bank - Revenue's submit that the assessee is not a Trust - assessee plea is that the income was exempt u/s 11 - in view of explanation to S. 13(1), which defines the term 'Trust', inter alia for purposes of S. 11, to include any other legal obligation, revenue's submission is not acceptable – hence interest on deposits is entitled to exemption

5 **2008 TMI - 31675 - HIGH COURT DELHI**

DIRECTOR OF INCOME TAX (EXEMPTION) versus SPAN FOUNDATION

Dated: 04-11-2008
Sections - 011, 012, 013,

Charitable trust – building given on rent to concerns in which some of trustees were directors – trust contended that the money received as rentals by the trust was used for charitable purpose - considering the fact that the rents paid by the so-called interested persons were adequate and was more than the standard rent as computed in accordance with the Delhi Rent Control Act, the question of any benefit being derived by an interested person does not arise on facts – revenue appeal dismissed

6 **2008 TMI - 31389 - SUPREME COURT**

Commissioner of Income Tax Versus J.K. Charitable Trust

Dated: 07-11-2008
Sections - 011, 013, 261,

Whether the respondent, assessee's trust was hit by the provisions of Section 13(1)(c) & 13(2)(a)(f) & (h) and therefore cannot be given the benefit of exemption u/s 11 - assessee submitted that for several years(i.e. for the A.Y 1983-84 to 2007-08) no appeal has been filed by revenue against any of the judgments of the different High Courts, even though the factual position is the same – assessee's submission is accepted – revenue's appeals are without merit and are accordingly dismissed

7 **2008 TMI - 30189 - MADHYA PRADESH HIGH COURT**

SHRI DHAKAD SAMAJ DHARAMSHALA BHAWAN TRUST Versus COMMISSIONER OF INCOME-TAX

Dated: 05-12-2006

Sections - 011, 012A, 013, 060, 063, 260A,

Claim of appellant-trust for registration u/s 12A denied on ground that object of trust is to establish a "dharamshala" only for the members of Dhakad Samaj which is not a backward class - Merely because the accommodation created is in a religious place, it cannot be said that providing dharamshala is for religious purposes - Tribunal was justified in holding that the appellant-trust is not entitled to claim the registration u/s 12A, thereby not entering into claim for exemption u/s 11

8 **2008 TMI - 30034 - JHARKHAND HIGH COURT**

COMMISSIONER OF INCOME-TAX Versus KARIMIA TRUST

Dated: 18-09-2007

Sections - 011, 013, 256, 010, 012,

Charitable-cum-religious trust – AO disallowed exemption u/s 11 on ground that there was violation of provisions of sec. 13(1)(bb), as trust was carrying on business which was not for the primary purposes of trust - Tribunal held that even if there is some miscarriage on account of breach of trust by the trustees, the benefit of sec. 11 cannot be denied if such miscarriage doesn't affect the validity of trust – moreover assessee has been getting benefit since 1969 – tribunal order is justified

Cases for: 013A,

1 **2008 TMI - 12286 - MADRAS High Court**

Dravida Munnetra Kazhagam Versus Commissioner of Income-Tax.

Dated: 20-08-2002

Sections - 013A,

Exemption to incomes of political parties - "Whether the Tribunal was correct in holding that the provisions of section 13A are not applicable to the assessee for the assessment years 1973-74, 1975-76, 1977-78 and 1978-79?" - There is nothing in the language or scheme of section 13A or in the scheme of the Income-tax Act, 1961 or the Finance Act, 1988, to indicate that Parliament intended to give retrospective operation to section 13A. - The Tribunal was right in holding that for these assessment years the assessee was not entitled to the benefit of section 13A. The question referred to us is therefore answered in favour of the Revenue and against the assessee.

2 **2008 TMI - 5531 - SUPREME Court**

Common Cause, A Registered Society Versus Union of India And Others

Dated: 04-04-1996

Sections - 013A, 276CC,

Non-filing of Income Tax Return - It is contended that the mandatory provisions of law are being violated by the political parties with impunity. During the elections crores of rupees are spent by political parties without indicating the source of the money - GOI is directed to have an investigation / inquiry conducted against the defaulter political parties and initiate action in accordance with law including action under section 276CC