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Diamond Queen Building, 2nd Floor, Office No. 208, Prarthana Samaj,
198 Raja Ram Mohan Roy Marg

Near Brahman Sabha Building, Mumbai – 400 004. Maharashtra.

CENTRALISED ADMISSION AND INQUIRY DIAL – 2382 06 76, 2380 11 21

e-mail - education@kalpeshclasses.com

WEBSITE -- [HTTP://WWW.KALPESHCLASSES.COM](http://www.kalpeshclasses.com)

LMR PART A – SUPPLEMENT 2

**NOTES ON AMENDMENT FOR THE ASSESSMENT YEAR 2007-2008
FINANCE ACT 2007**

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SECTION 2(25A) MEANING OF INDIA

Now 'India' means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.

SECTION 9 SCOPE OF ACCRUAL

This Section explains as to what shall be the income deemed to accrue or arise in India. It provides that if an Indian resident pays to a non-resident any amount on account of interest, royalty or fees for technical services, the same will be taxable in India. This is irrespective of the fact that the non-resident may not have any operations in India. If the payment for services is made by a resident who has used the same in India, it is taxable in India. Only if the resident pays for using the services or the loan for earning income from a source outside India, it will not be taxable in India. In the above context, the Supreme in the case of Ishikawaji — Harima Heavy Industries Ltd., (288 ITR 408), has held that **for any such deemed income to be taxable in India, there must be sufficient territorial nexus between such income and the territory of India.** It has been held that where any sum is payable to a non-resident by a resident, the deeming sweep of the said Section cannot bring to tax, any income of a non-resident received outside India from Indian concern for services rendered outside India. **In regard to fees for technical services, it has been specifically held that for the fees to be taxable in India, the services have not only to be utilised in a business in India, but also have to be rendered in India.** By amendment of this Section, w.e.f. 1-6-1976, Explanation has been inserted at the end of S. 9 with a view to overcome the ratio of the above decision and to provide that income **will be deemed to accrue or arise to a non-resident in India on account of interest, royalty and fees for technical services, whether or not the non-resident has a residence or place of business or business connection in India.**

S. 12 A AND S. 12AA REGISTRATION OF TRUST PROCEDURE

Now, registration of a charitable trust or institution will be governed by S. 12AA. The power of the CIT to condone delay in making application for registration is taken away w.e.f. 1-6-2007. Therefore, a trust/institution which makes delayed application for registration cannot get registration **from the date of its creation even if there is a reasonable cause for such delay.** In order to be eligible for exemption from the date of creation, the trust/institution will have to make the application for registration in the same financial year in which it is created/established. **CIT can grant registration u/s.12AA after 1-6-2007 from the first day of the financial year in which application is made.**

SEC 35(2AB) EXTENDED TIME LIMIT

Section 35(2AB) provides that where a company engaged in the business of bio-technology or in the business of manufacture or production of articles or things specified therein, or notified there under, incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then there shall be allowed a deduction of a sum equal to one and one-half times of the expenditure so incurred. However, no deduction is allowable under the said sub-section in respect of such expenditure incurred after 31-3-2007. **Now it allows deduction in respect of expenditure incurred up to 31-3-2012.**

SEC 36(1) PAYMENT OF INSURANCE PREMIUM

Now, said section shall be amended to provide that the said premium can be **paid by other mode also except cash.**

SEC 36 (1)(VIA) PROVISIONS EXTENDED TO CO-OPERATIVE BANK

The amendments extend the same deductions which are available to a scheduled bank and non-scheduled bank to a co-operative bank not being a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

This amendment is consequential to the amendment made last year in S. 80P, making income of co-operative bank taxable w.e.f. A.Y. 2007-08.

SEC 36(1)(VIII) DEDUCTIONS FOR PUBLIC FINANCIAL INSTITUTION

So as to reduce the percentage of deduction from forty per cent to twenty per cent of the profits derived from the business of providing long-term finance (finance exceeding 5 year).

<u><i>Specified entity</i></u>	<u><i>Eligible business</i></u>
Financial corporation (public sector company or specified in 4A of company law.) Bank / co-operative bank	Long term finance for Agri / Industrial / Infrastructure development in India -do-
Housing finance company	Long term finance for housing
Other financial corporations	Long term finance for infrastructure facility in India

SEC 36(1)(XIV) CONTRIBUTION TO SPECIFIED FUND BY PFI

This provides deduction of any sum paid by a public financial institution by way of contribution to *such credit guarantee fund* trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

SEC 40A(3) CASH PAYMENT > 20,000

(a) where the *assessee incurs any expenditure* in respect of which payment exceeding twenty thousand rupees is made other-wise than by an account payee cheque drawn on a bank or account payee bank draft, no deduction shall be allowed in respect of such expenditure; and

(b) where an allowance has been made in the *assessment for any year in respect of any liability incurred* by the assessee and subsequently during any previous year, the assessee makes payment in respect thereof, otherwise than by an *account payee cheque drawn on a bank or account payee bank draft*, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the amount of payment exceeds 20,000 rupees.

However, no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession where any payment exceeding twenty thousand rupees is made in such cases and such circumstances as may be prescribed, having regard to the nature and *extent of banking facilities available, considerations of business expediency and other relevant factors*

Past years liability paid during previous year

The effect of this amendment will be that if liability for any expenditure of Rs.1,00,000 *is incurred in the accounting year 2006-07*, the same will be allowed in A.Y. 2007-08 if provision for the same is made in that year. If the actual payment of Rs.1,00,000 is made by a crossed cheque in the month of April 2007, only 20% of

Rs.1,00,000 i.e., Rs.20,000 will be added as income of A.Y. 2008-09. This is because if Rs.1,00,000 was paid by a crossed cheque in March 2007, only 20% i.e., Rs.20,000 would have been disallowable in A.Y. 2007-08.

It may be noted that S. 40A(3) applies to expenditure claimed as deduction for computation of income from business or profession and income from other sources. **This Section does not apply to capital expenditure.**

SEC 44DB BUSINESS RE-ORGANISATION OF CO-OPERATIVE BANKS

44DB	Where there is any bank eligible for 35D, 35DD or 35DDA is amalgamated with another bank such deduction shall be bifurcated between transferor and <u>transferee in the proportion of number of days.</u> The new S. 44DB now provides that in the event of amalgamation or demerger of co-operative banks, deduction u/s.32 (Depreciation), 35D (Amortisation of preliminary expenses), and 35DD (Amortisation of amalgamation and demerger expenses) and 35DDA (Amortisation of VRS payments), which is allowable to the amalgamating or demerged bank will continue to be allowed to the amalgamated or resulting bank for the balance period. In the year of amalgamation or demerger, the deduction will be allowed to amalgamating/demerged as well as amalgamated/resulting bank on proportionate basis (based on number of days). The terms 'Amalgamation' and 'Demerger' are defined in the same manner in S. 2(1B) and S. 2(19AA) which apply to limited companies.
47	Amalgamation / business re-organisation of banks <u>would not be regarded as transfer</u> for both the banks and its share holders.
49	Cost of such investment to investor will <u>be proportionate of cost.</u> (in case of amalgamation)
49	Cost of such investment to <u>investor will be proportionate of cost</u> like 49 (2C) and (2D). (In case of demerger)

SEC 2(14) CAPITAL ASSET

The clause shall be substituted so as to exclude, from the expression 'personal effects', jewellery, archaeological collections, drawings, paintings, sculptures and any work of art, so as to bring the same within the purview of the definition of 'capital assets'. **Any sale of these items would be taxable.**

SEC 2(42A) LONG TERM ASSET

Period of **sweat equity** shares shall be **recognized from date of its allotment.**

SEC 47,49 NOT REGARDED AS TRANSFER

Amalgamation / business re-organisation of banks **would not be regarded as transfer** for both the banks and its share holders. **Cost of such investment to investor will be proportionate of cost.**

SEC 54EC EXEMPTION IF THE INVESTMENT < 50 LAKHS

The investment made on or after 1-4-2007 in the long-term specified asset by an assessee during any financial year **does not exceed fifty lakh rupees**. The provision restricting amount that can be deposited u/s.54EC will also create hardship in many genuine cases. This is one instance where notification is issued first, restricting the deposit without authority of law, and later on validated by retrospective amendment.

Shri ABC sells his land in April 2007, and makes a long-term capital gain of Rs.70 lacs. In view of the above proviso, he can invest up to Rs.50 lacs within six months u/s.54EC. He will have to pay tax on balance Rs.20 lacs.

If Shri ABC sells shares in an unlisted public limited company in May 2007, and makes long-term capital gain of Rs.30 lacs, he can take the view that capital gain on each capital asset is to be separately computed, and therefore, he will be eligible to invest Rs.30 lacs in bonds u/s.54EC, as the limit of Rs.50 lacs under the proviso applies to each item of capital gain separately.

It is possible to take the view that the limit of Rs.50 lacs provided in the above proviso will apply to each item of long-term capital gain.

Alternatively It seems that if the investment is more than 50 lakhs then to the extent of 50 lakhs exemption would not be available.

Students must mention both the answers in examination condition.

SEC 72A SCOPE EXTENDED

This Section deals with carry forward and set-off of accumulated losses and unabsorbed depreciation in the case of amalgamation or demerger of a company. At present, the Section applies to a company owning an industrial undertaking, a ship, a hotel or a banking company. **The benefit of this Section is now extended to amalgamation of one or more public sector companies engaged in the business of operation of aircraft.**

SEC 72AB DEMERGER OF BANK

This provisions are very similar to 72A amalgamation or demerger.

A new S. 72AB has also been added from A.Y. 2008-09 to provide for carry forward and set-off of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation or demerger of co-operative banks. The Section provides that the accumulated business losses and unabsorbed depreciation of amalgamating or demerged co-operative banks will be allowed to be set off against the income of amalgamated/resulting co-operative banks, subject to the conditions specified in the Section. These conditions are more or less the same as provided in S. 72A dealing with carry forward and set-off of accumulated losses and absorbed depreciation in the case of amalgamation or demerger of limited companies.

It may be noted that these two Sections do not deal with a situation where a co-operative bank merges with any other nationalised bank or a private sector bank which is registered under the Companies Act.

92CA TRANSFER PRICING VALUATION OFFICER

Valuation officer is now time bound person. the **order shall be made at least 60 days before the period of limitation** referred to in section 153 or section 153B, as the case may be, for making the order of assessment or re-assessment or recomputation, or fresh assessment, expires.

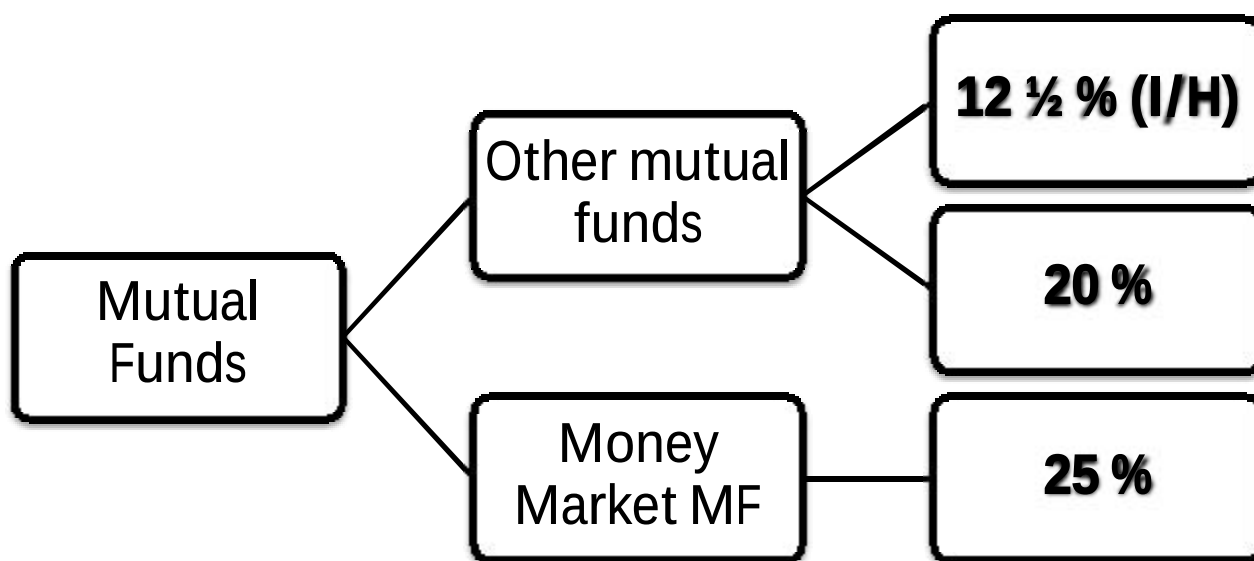
92CA(4) is amended so as to provide that, on receipt of the order under 92CA(3), **the Assessing Officer shall proceed to compute the total income of the assessee in conformity with the arm's length price** determined by the Transfer Pricing Officer.

SEC 115JB MAT

115JB is amended to provide that the book profit shall not be increased / decreased by the amount or amounts of expenditure / income relatable to any income to which section 10A or section 10B applies. Thus such income will be taxable in MAT provisions.

In other words income **covered u/s.10A and u/s.10B will not be excluded and the same will be liable to MAT**. The above amendment does not cover income derived by a unit set up in SEZ covered by S. 10AA and therefore, such income of a SEZ unit will not suffer MAT.

SEC 115-O NEW RATES FOR DIVIDEND TAX



Dividend tax rate for companies 15 %

FRINGE BENEFIT TAX

FBT is now extended to shares allotted or transferred under any Employees Stock Option Plan (ESOP) and to Sweat Equity Shares. In view of this, shares allotted/transferred under an ESOP or shares allotted/transferred to an employee or a director at a discount or for consideration other than cash for providing any intellectual property or for providing know-how or value additions will be liable to FBT. For this purpose, the value of fringe benefit will be considered as the fair market value of the shares on the date on which the option vests with the employee, as reduced by the amount actually paid by the employee or the director to whom this benefit is given. The method of determining the 'fair market value' of the shares will be prescribed by CBDT.

It may be noted that proviso to S. 17(2)(iii) is deleted. Therefore, ESOP will not be taxable as perquisite in the hands of the employee. Further, for computing capital gain in the hands of the employee/director on sale of shares allotted under an ESOP/Sweat Equity Shares, fair market value which has been taken into account while computing the value of fringe benefit, will be considered as actual cost. In other words, the value determined under the Rules framed by CBDT on the date of vesting (without deducting the amount actually paid by the employee/director) will be considered as cost of shares.

FBT AND ESOPS

A new clause 115WB(1) (d) is inserted so as to include any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), within the ambit of 'fringe benefits'.

Fair market value of the specified security or sweat equity shares on the date on which option vests with the employee as reduced by the amount actually paid by, or recovered from, the employee in respect of such security or shares, shall be the value of fringe benefit.

FMV – AMOUNT PAID BY EMPLOYEE = FBT

SECTION 49(2AB) COST OF SUCH ESOP TAXED IN FBT

When subsequently employee sells the ESOPs then FMV at time of his subscription would be the cost of acquisition.

EMPLOYER CAN RECOVER TAX ON FBT FROM EMPLOYEE

It shall be lawful for the employer to vary the agreement or scheme under which such specified security or sweat equity shares has been allotted or transferred. The agreement or scheme can be modified so as to recover from the employee the fringe benefit tax to the extent to which such employer is liable to pay the fringe benefit tax in relation to the value of fringe benefits provided to the employee and determined under the modified provisions.

ESOP / FBT AND ACCOUNTS

When ESOP is allowed to the employee, the employer will have to debit the difference between the fair value as determined under the Rules as reduced by the actual amount received from the employee to its Profit & Loss A/c. and credited to Share Capital or Share Premium A/c. The amount debited to the Profit & Loss A/c. will be considered as a benefit given to the employee and will be allowable as business expenditure. FBT is payable on expenditure which is allowed as business expenditure. **Therefore, if ESOP expenditure is not allowed, no FBT will be payable on the same.**

One certain expense there shall be no FBT

1. expenditure made on display of products.
2. At present publicity expense excludes only the expenditure on distribution of free samples of medicines or of medical equipment to doctors. Now it is amended to extend the benefit of this clause to expenditure on distribution of samples of any items either free of cost or at a concessional rate to any person.

Advance tax of FBT is now similar to normal advance tax provisions.

FBT is one provision which has created resentment in tax paying public. If the suggestion for granting exemption up to Rs.2 lacs of Fringe Benefits had been accepted, most of the small assesseees would have been saved of the botheration of making computation and payment of this tax. From the speech of the Finance Minister in the Rajya Sabha on 4th May 2007, it appears that there is a rethinking about this tax. He has stated that if average rate of tax paid by the corporate assesseees, which is now 19.26%, increases even by 1%, the Government will think of abolishing this tax. **Industry has been suggesting that FBT can be abolished and the corporate tax rate can be increased by 2 to 3%.**

SEC 132B INTEREST ON MONIES SEIZED

section 132B provides for payment of simple interest at the rate of **six per cent per annum** by the Central Government on the unadjusted amount of money seized or requisitioned. Amended section 132B(4) now provides that simple interest at **the rate of one-half per cent**, is to be calculated for every month or part of a month instead of six per cent per annum.

SEC 139C AND 139D CERTAIN DOCUMENTS TO BE PRODUCED ON DEMAND

A new section 139C is inserted so as to provide that the **Board may make rules** providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificate, reports of audit or any other documents, which are otherwise under any other provisions of this Act, except section 139D, required to be furnished, along with **the return but on demand to be produced before the Assessing Officer.**

A new section 139D is also inserted so as to provide that the Board may make rules providing for the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner in which the return of income in electronic form may be furnished; the documents, statements, receipts, certificates or reports of audit which may not be furnished along with the return of income in electronic form but shall be produced before the Assessing Officer on demand; and the computer resource or the electronic record to which the return of income in electronic form may be transmitted. As a consequential amendment, new clauses (eeba) and (eebb) are also inserted in sub-section (2) of section 295.

SEC 142A SPECIAL AUDIT

Sub-section (2A) of section 142 is amended by inserting a proviso to provide that the Assessing Officer shall not direct the assessee to get the accounts audited unless the assessee has been given a reasonable opportunity of being heard. A proviso is inserted in section 142(2D) so as to provide that where any direction is issued on or after 1-6-2007 by the Assessing Officer to an assessee to get the accounts audited, the expenses of, and incidental to, such audit (including the remuneration of the Accountant) shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government.

SCOPE OF 143(3) PROVISIO

The proviso to 143 provides, *inter alia*, that in the case of a fund or trust or institution, which is required to furnish the return of income under 139 (4C), no order making an assessment of the total income or loss of such fund or trust or institution shall be made by the Assessing Officer, without giving effect to the provisions of section 10, unless the Assessing Officer has intimated the Central Government, the contravention of the provisions 10 and the notification issued in respect of such fund or trust or institution has been rescinded.

SEC 153 / 153B TIME LIMIT FOR TRANSFER PRICING VALUATION OFFICER

New provisos are inserted in sub-section (1) of section 153B to revise the / time limits specified in the said section for completion of assessment or reassessment in case of search or requisition and where a reference is made under section 92CA by the Assessing Officer to the Transfer Pricing Officer for determination of arm's length price of international transactions. In such cases, the revised time limit shall be the time limit specified under the aforesaid section as increased by twelve months. The revised time limit shall also be applicable in cases where such reference was made to the Transfer Pricing Officer before 1-6-2007 but an order has not been passed by him before the said date.

(i) U/s.92CA, the assessing officer (AO) can refer the computation of arm's-length price to a TPO. Currently, there is no extra time available to the AO for completing the assessment or reassessment in cases where such transfer pricing assessment is required.

(ii) In order to ensure that the TPO as well as the AO get sufficient time to make the audit of transfer price and the assessment in cases involving international transactions, the time limit for completion of assessment or reassessment **is increased by 12 months** as compared to the regular assessments.

(iii) Further, the **TPO is required to complete** the transfer pricing assessment, **two months before the due date for regular assessment**.

(iv) This provision applies where references for transfer pricing assessments are made after 31st May 2007; or where references have been made before 1st June 2007, but transfer pricing assessments have not been completed by TPO before 1st June 2007.

(v) **It is further provided that the assessing officer has to complete the assessment 'in conformity with' the transfer pricing assessment order.** This means that the Assessing Officer is required to accept the arm's length price as computed by the TPO and has no discretion in the matter of computation of arm's-length price.

SEC 153D POST SEARCH ASSESSMENT ORDER TO BE PASSED BY JC OR ABOVE OFFICER

New section 153D provides that no **order of assessment or reassessment shall be passed** by an Assessing Officer below the rank of **Joint Commissioner** in respect of,— (i) each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A; and (ii) the assessment year relevant to the previous year in which search is conducted or requisition is made under the said sections, except with the previous approval of the Joint Commissioner.

SEC 172 NOW TIME LIMIT FOR PASSING ORDER OF NR SHIPPING ASSESSEES

No order assessing the income and determining the sum of tax payable thereon shall be made under the said section after the **expiry of nine months from the end of the financial year** in which the return is furnished.

AMENDMENT TO TDS

193	The said section is amended to provide that the person responsible for paying to a resident any interest on 8% Savings (Taxable) Bonds, 2003 <u>shall deduct income tax if interest payable on such Bonds exceeds ten thousand rupees during the financial year.</u>
194A	The said section is amended to provide that the limit for tax deduction at source for the purpose of said section shall be <u>10,000 rupees, where the payer is a banking company</u> or a co-operative society engaged in carrying on the business of banking, or interest is payable on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf, <u>and 5,000 rupees in any other case.</u> Section 206A is amended so as to conform to the amendment made in section 194A in

	relation to <u>increasing the threshold limit</u> for deduction of tax at source to ten thousand rupees where the payer is a banking company or a co-operative society.
194C	194C now provide for deduction of tax at source on payments made by an individual or a Hindu undivided family to the contractor <u>where he is governed by tax audit provision in preceding year.</u> However, it provides that <u>no TDS</u> shall be made in those cases where payments are made exclusively <u>for personal purposes of such individual</u> or any member of Hindu undivided family. In other words, if no deduction is claimed <u>for such payment in the computation of business/professional income, there will be no obligation to deduct tax at source.</u>
194H	5% rate revised to 10% A proviso is also inserted to provide <u>exemption from deduction of tax at source</u> in respect of payments of commission or brokerage payable by <u>BSNL or MTNL to their public call office (PCO) franchisees.</u>
194I	Rates revised 10 % for plant and machinery, equipments. 15 % for Land and Building, payee is individual. 20 % for Land and Building, payee is other person. <u>This provision applies to all leasing companies also engaged in the business of leasing equipments.</u>
194J	Rate revised 10 %
201	Rate 1 % p.m. instead of 12 % p.a.
206C	Section 206C is amended to define 'mining and quarrying' by specifying that the mining and quarrying shall <u>not include mining and quarrying of mineral oil.</u> It has been further clarified that the expression 'mineral oil' shall include petroleum and natural gas.

AMENDMENT TO SETTLEMENT COMMISSION

Please refer to class room discussion detailed study.

The provisions relating to Settlement Commission made by this Finance Act are such that no assessee would like to approach the Commission. The institution of Settlement Commission was set up three decades ago. It has not been effective in settling the disputes since the procedure is complicated. This procedure could have been simplified and made time-bound. Again, the system of selecting members of the commission should have been made more transparent and left to an independent panel on the lines as panel for selection of ITA Tribunal Members. The provisions should have been made to strengthen the commission rather than making provisions to ensure winding up the Commission.

AMENDMENT TO PROVISIONS RELATING TO APPEALS

246A where person who has collected TDS and not paid to government and regarded as assessee in default may also appeal that no tax is deductible on such income.

Section 248 is substituted so as to provide that where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, **he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.**

249 is also amended to provide that where the appeal is under section 248, the prescribed time shall be counted from the date of payment of tax.

APPEALS TO ITAT

Section 253 is amended so as to include appeals against the orders passed by the Commissioner under section 80G, **relating to approval of institutions or funds.**

ITAT POWER OF STAY PROCEEDING

1. Appellate Tribunal may, on an application made by the assessee and after considering the merits of the application, pass an **order of stay in any proceedings** relating to an appeal
2. Stay period for a period **not exceeding one hundred and eighty days** from the date of such order
3. Appellate Tribunal shall **dispose of the appeal within the said** period of stay specified in that order.
4. It is further provided that if such appeal is not so disposed of within the period of stay specified in the order of stay, the Appellate Tribunal may, on an application made in this behalf by the assessee and on being satisfied that the delay in disposing of the said appeal is not attributable to the assessee, **extend the period of stay, or pass an order of stay** for a further period or periods as it thinks fit; but the aggregate of the period originally allowed and the period or periods so extended or allowed shall **not, in any case, exceed 365 days** and the Appellate Tribunal shall dispose of the said appeal within the period of stay so extended or allowed.

If the appeal is not so disposed of within the period of stay initially allowed or the period or periods of stay subsequently extended or allowed, the order of stay shall stand vacated after the expiry of such period or periods.

PENALTY FOR SEARCH

A new *Explanation 5A* to section 271 is inserted so as to provide that where in the course of a search initiated under section 132 on or after 1-6-2007, the assessee is found to be the owner of,—

- (i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or

- (ii) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year, which has ended before the date of the search and the due date for filing the return of income for **such year has expired and the assessee has not filed the return, then,**

notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

271AAA – PENALTY FOR SEARCH CASES WOULD BE 10 % OF UNDISCLOSED INCOME.

No penalty to be imposed where (i) in the course of search, in a statement under section 132(4) admits the undisclosed income and specifies the manner in which such income has been derived; (ii) substantiates the manner in which the undisclosed income was derived; and (iii) pays the tax, together with interest, if any, in respect of the undisclosed income.

PRESUMPTION OF BOOKS AND ASSETS

A new section 292C relating to presumption as to assets, books of account, etc., is inserted, so as to provide that where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search u/s 132, **it may be presumed that**—

- (i) Such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;
- (ii) The contents of such books of account and other documents are true; and
- (iii) The signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or at-tested.

The Supreme Court in the case of *Metraini v. CIT*, (287 ITR 209), held that the said presumptions are not available under any other proceedings under the Act. To meet with this situation, the new Section provides that the said presumptions will be applicable **in any other proceeding under the Act**. Corresponding amendments have also been made in the Wealth-tax Act.

BANKING CASH TRANSACTION TAX

This tax was levied by the Finance Act, 2005, on cash withdrawals from bank account on any single day. The tax is payable in the case of individual or HUF if the withdrawal on a single day exceeds Rs.25,000. This limit is now enhanced to Rs.50,000 from 1-6-2007. The limit of Rs.1,00,000 for such withdrawals in other cases will remain unchanged.

It is also now provided that from 1-6-2007, this tax will not be payable by any offices or establishments of the Central or State Governments. **In other words, they can draw cash from bank accounts on a single day without any monetary limit.**