

## CHAPTER III

30

## DIRECT TAXES

*Income-tax*

3. In section 2 of the Income-tax Act,—

Amendment of  
section 2.

(a) in clause (24), after sub-clause (xi), the following sub-clause shall be inserted with effect from the 1st day of April, 2003, namely:—

35 “(xii) any sum referred to in clause (vii) of section 28;”;

(b) in clause (31), after sub-clause (vii), the following *Explanation* shall be inserted, namely:—

40 “*Explanation.*—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;”;

(c) in clause (37A), in sub-clause (i), for the words, figures and letters “or section 115BB or section 115E”, wherever they occur, the words, figures and letters “or section 115BB or section 115BBB or section 115E” shall be substituted with effect from the 1st day of April, 2003.

4. In section 10 of the Income-tax Act,—

Amendment of  
section 10.

45 (a) clause (3) shall be omitted with effect from the 1st day of April, 2003;

(b) in clause (4), in sub-clause (i), the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“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;”;

50 (c) in clause (4B), for the words “savings certificates issued”, the words, figures and letters “savings certificates issued before the 1st day of June, 2002” shall be substituted with effect from the 1st day of April, 2003;

(d) clause (5B) shall be omitted with effect from the 1st day of April, 2003;

(e) in clause (6), sub-clause (i) shall be omitted with effect from the 1st day of April, 2003;

(f) in clause (6A), after the words, figures and letters "Government or the Indian concern after the 31st day of March, 1976", the words, figures and letters "but before the 1st day of June, 2002" shall be inserted with effect from the 1st day of April, 2003;

(g) in clause (6B), with effect from the 1st day of April, 2003,— 5

(i) for the words "agreement entered into by the Central Government", the words, figures and letters "agreement entered into before the 1st day of June, 2002 by the Central Government" shall be substituted;

(ii) for the words "related agreement approved", the words "related agreement approved before that date" shall be substituted; 10

(h) in clause (10C), after sub-clause (viib), the following sub-clause shall be inserted, namely:—

"(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";

(i) after clause (10C), the following clause shall be inserted with effect from the 1st day of April, 2003, namely:— 15

"(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;"; 20 1 of 1956.

(j) clause (14A) shall be omitted with effect from the 1st day of April, 2003;

(k) in clause (15), with effect from the 1st day of April, 2003,—

(i) in sub-clause (iib), the following proviso shall be inserted, namely:—

"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;"; 25

(ii) in sub-clause (iid), after the third proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

"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.";

(l) in clause (20), the following Explanation shall be inserted with effect from the 1st day of April, 2003, namely:— 30

'*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, 35

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.

(m) clause (20A) shall be omitted with effect from the 1st day of April, 2003;

(n) in clause (21), after the third proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:— 40

"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 45

(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, 50

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;”;

5 (o) in clause (22B), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

10 “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;”;

(p) clause (23) shall be omitted with effect from the 1st day of April, 2003;

(q) in clause (23A), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

15 “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

20 (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;”;

25 (r) in clause (23B), after the second proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“Provided also that where the institution has been approved by the Khadi and Village Industries Commission and subsequently that Commission is satisfied that—

30 (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,

35 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.”;

(s) in clause (23C), —

(i) in the third proviso, for clause (a), the following clause shall be substituted with effect from the 1st day of April, 2003, namely:—

40 “(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 any income is accumulated on or after the 1st day of April, 2002, the period of such accumulation shall in no case exceed five years; and”;

(ii) in the ninth proviso, with effect from the 3rd day of February, 2001,—

45 (a) after the words, brackets, letters and figures “in terms of clause (d) of sub-section (2) of section 80G”, the words, brackets, figures and letter “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” shall be inserted and shall be deemed to have been inserted;

50 (b) for the words, figures and letters “or before the 31st day of March, 2002”, the words, figures and letters “or before the 31st day of March, 2003” shall be substituted and shall be deemed to have been substituted;

(iii) the tenth proviso shall be omitted;

(iv) after the tenth proviso, the following provisos shall be inserted with effect from the 1st day of April, 2003, namely:—

“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 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 trust or institution 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;”;

(t) in clause (23D), in the opening portion, the words, figures and letter “subject to the provisions of Chapter XII-E,” shall be omitted with effect from the 1st day of April, 2003;

(u) clause (23E) shall be omitted with effect from the 1st day of April, 2003;

(v) after clause (23EA), the following clause shall be inserted, namely:—

“(23EB) any income of the Credit Guarantee Fund Trust for Small Scale 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, 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;”;

(w) in clause (23FA), the words, figures and letter “other than dividends referred to in section 115-O,” shall be omitted with effect from the 1st day of April, 2003;

(x) in clause (23G), the words, figures and letter “other than dividends referred to in section 115-O,” shall be omitted with effect from the 1st day of April, 2003;

(y) clauses (29) and (33) shall be omitted with effect from the 1st day of April, 2003.

Amendment  
of section  
10A.

5. In section 10A of the Income-tax Act, in sub-section (1), after the third proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“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:”.

Amendment  
of section  
10B.

6. In section 10B of the Income-tax Act, in sub-section (1), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2003, namely:—

“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 from the export of such articles or things or computer software.”

7. In section 11 of the Income-tax Act, with effect from the 1st day of April, 2003,—

Amendment  
of section 11.

(a) in sub-section (1),—

5 (i) in clause (a), the words “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 twenty-five per cent. of the income from such property;” shall be omitted;

10 (ii) in clause (b), the words “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 twenty-five per cent. of the income from such property;” shall be omitted;

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

15 “*Explanation.*—For the purposes of clauses (a) and (b), if, in the previous year, the income applied to charitable or religious purposes in India falls short 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 for the reason that the whole or any part of the income has not been received during that year, then, 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, 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) of section 139 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, during the previous year in which the income is received or during the previous year immediately following, as the case may be.”;

25 (b) for sub-section (1B), the following sub-section shall be substituted, namely:—

30 “(1B) Where any income in respect of which an option is exercised under the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in the said *Explanation*, then, such income shall be deemed to be the income of the person in receipt thereof, of the previous year immediately following the previous year in which the income was received.”;

(c) in sub-section (2),—

(i) the words “seventy-five per cent. of” shall be omitted;

(ii) after the second proviso, the following *Explanation* shall be inserted, namely:—

35 “*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.”;

(d) in sub-section (3),—

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

45 “(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.”;

(ii) for the words “set apart or ceases to remain so invested or deposited or”, the words “set apart or ceases to remain so invested or deposited or credited or paid or” shall be substituted;

(e) in sub-section (3A), the following proviso shall be inserted, namely:—

50 “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.”.

8. In section 12 of the Income-tax Act, in sub-section (3), with effect from the 3rd day of February, 2001,—

Amendment  
of section 12.

55 (a) after the words, brackets, letters and figures “in terms of clause (d) of sub-section (2) of section 80G”, the words, brackets, figures and letter “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” shall be inserted and shall be deemed to have been inserted;

(b) for the words, figures and letters “or before the 31st day of March, 2002”, the words, figures and letters “or before the 31st day of March, 2003” shall be substituted and shall be deemed to have been substituted. 5

Amendment of section 12A. 9. In section 12A of the Income-tax Act, clause (c) shall be omitted.

Amendment of section 14A. 10. In section 14A of the Income-tax Act, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 11th day of May, 2001, namely:—

“Provided that nothing contained in this section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before the 1st day of April, 2001.”. 10

Amendment of section 17. 11. In section 17 of the Income-tax Act, in clause (2), after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:— 15

‘Provided further that for the assessment year beginning on the 1st day of April, 2002, nothing contained in this clause shall apply to any employee whose income under the head “Salaries” (whether due from, or paid or allowed by, one or more employers) exclusive of the value of all perquisites not provided for by way of monetary payment, does not exceed one lakh rupees.’.

Amendment of section 24. 12. In section 24 of the Income-tax Act, in clause (b), with effect from the 1st day of April, 2003,— 20

(a) in the second proviso, for the words, figures and letters “before the 1st day of April, 2003”, the words “within three years from the end of the financial year in which capital was borrowed” shall be substituted;

(b) after the second proviso and the *Explanation*, the following shall be inserted, namely:—

‘Provided also that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan. 25

*Explanation.*—For the purposes of this proviso, the expression “new loan” means the whole or any part of a loan taken by the assessee subsequent to capital borrowed, for the purpose of repayment of such capital.’. 30

Amendment of section 28. 13. In section 28 of the Income-tax Act, after clause (vi), the following shall be inserted with effect from the 1st day of April, 2003, namely:—

‘(vii) any sum, whether received or receivable in cash or kind, under an agreement for— 35

(a) not carrying out any activity in relation to any business; or

(b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.

*Explanation.*—For the purposes of this clause,— 40

(i) “agreement” includes any arrangement or understanding or action in concert,—

(A) whether or not such arrangement, understanding or action is formal or in writing; or

(B) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(ii) “service” means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as accounting, banking, communication, conveying of news or information, advertising, entertainment, amusement, education, financing, insurance, chit funds, real estate, construction, transport, storage, processing, supply of electrical or other energy, boarding and lodging.’. 45

Amendment of section 32. 14. In section 32 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2003,— 50

(a) in clause (ii),—