

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (h) of clause 4 of the Bill seeks to insert a new sub-clause (viic) in clause (10C) of section 10 of the Income-tax Act relating to incomes not included in total income. The amendment proposed by this clause empowers the Central Government to specify, by notification in the official Gazette, an institution, having importance throughout India or in any State or States for the purposes of the said sub-clause.

Clause 14 of the Bill seeks to amend section 32 of the Income-tax Act relating to depreciation.

Sub-clause (a) seeks to amend sub-section (1) of the said section to provide for amendments of consequential nature.

Sub-clause (b) seeks to insert a new clause (iia) in sub-section (1) of the said section to provide that in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after 31st March, 2002, by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to fifteen per cent. of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii). Such fifteen per cent. shall be allowed to a new industrial undertaking during any previous year in which such undertaking begins to manufacture or produce any article or thing on or after 1st April, 2002; or any industrial undertaking existing before 1st April, 2002, during any previous year in which it achieves the substantial expansion by way of increase in installed capacity by not less than twenty-five per cent. However, no deduction shall be allowed in respect of any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house; or any office appliances or road transport vehicles; or any machinery or plant, the whole or part of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

It is further proposed to provide that no deduction shall be allowed under clause (A) or, as the case may be, clause (B), of the first proviso unless the assessee furnishes the details of machinery or plant and increase in the installed capacity of production in such form, as may be prescribed, along with the return of income, and 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 clause.

It is also proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form in which the details of machinery or plant and increase in the installed capacity of production shall be furnished for the purposes of availing further sum equal to fifteen per cent. for depreciation.

Clause 32 of the Bill seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc. so as to require a company or a co-operative society to furnish a separate audit report for claiming deductions under sections 80-IA and 80-IB.

The amendment proposed by this clause confers power upon the Central Board of Direct Taxes to prescribe, by rules, the form and manner in which the assessee shall furnish a report of audit in order to claim the deductions.

Clause 33 of the Bill seeks to amend section 80-IB of the Income tax Act relating to deduction in respect of profits and gains

from certain industrial undertakings, other than infrastructure development undertakings, by inserting two new sub-sections (7A) and (7B) and amending sub-section (14) of that section.

Sub-section (7A) seeks to provide a deduction from profits and gains of the business of building, owning and operating a multiplex theatre. Sub-section (7B) seeks to provide a deduction from profits and gains of the business of building, owning and operating a convention centre. The definitions of such multiplex theatre and convention centre are provided in the proposed amendment to sub-section (14).

The amendments proposed by this clause confer power upon the Central Board of Direct Taxes to prescribe, by rules, the form and manner in which the assessee shall have to furnish a report of audit to claim deduction under sub-sections (7A) and (7B).

The amendments also confer power upon the Central Board of Direct Taxes to prescribe, by rules, in case of a convention centre, the area of the building, the size and number of convention halls and other facilities and amenities; and, in case of a multiplex theatre, the area of the building, the size and the number of cinema halls and commercial shops and other facilities and amenities.

Clause 36 of the Bill seeks to substitute section 89 of the Income-tax Act relating to relief when salary, etc. is paid in arrears or in advance so as to include arrears of family pension, for the purpose of this relief.

The amendment proposed by this clause confers power upon the Central Board of Direct Taxes to prescribe, by rules, the form and manner of application to be made to the Assessing Officer, for grant of such relief.

Clause 56 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

Sub-clause (a) seeks to insert a new sub-section (1A) in section 139 so as to provide that any person, being an individual, who is in receipt of income chargeable under the head "Salaries", may, at his option, furnish a return of his income for any previous year to his employer, in accordance with such scheme and subject to such conditions as may be specified by the Board, and such employer shall furnish all returns of income received by him on or before the due date, in such form and manner as may be specified in that scheme, and in such case, the return furnished by any employee to his employer shall be deemed to be a return furnished under sub-section (1) of that section.

It is proposed to confer power upon the Central Board of Direct Taxes to specify the scheme in this behalf.

Sub-clause (b) seeks to insert a new sub-section (4C) in section 139 so as to provide that every scientific research association referred to in clause (21), news agency referred to in clause (22B), association or institution referred to in clause (23A), institution referred to in clause (23B), fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) 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) of clause (23C), trade union referred to in sub-clause (a) or association referred to in sub-clause (b) of clause (24), of section 10, shall, if the total income in respect of which such scientific research association, news agency, association or institution, fund, trust, institution, university or other educational institution, hospital or other medical institution or trade union is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the

prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1) of section 139.

The proposed new sub-section (4C) empowers the Central Board of Direct Taxes to prescribe, by rules, the form and manner of verification of, and the particulars to be set forth in, the return to be furnished by persons specified in that sub-section.

Clause 85 seeks to amend section 200 of the Income-tax Act relating to duty of person deducting tax.

It is proposed to insert a new sub-section (2) in the said section so as to provide that any person being an employer, referred to in sub-section (1A) of section 192, shall pay the tax, within the prescribed time to the credit of the Central Government or as the Central Board of Direct Taxes directs.

The proposed amendment confers power upon the Central Board of Direct Taxes to prescribe, by rules, the time within which such tax is to be paid.

Clause 87 seeks to amend section 203 of the Income-tax Act relating to furnishing of certificate for tax deducted.

It is proposed to insert a new sub-section (2) in the said section so as to provide that every person referred to in sub-section (1A) of section 192 shall, within the prescribed period, furnish to the person in respect of whose income such payment of tax has been made, a certificate to the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.

The proposed amendment confers power upon the Central Board of Direct Taxes to prescribe, by rules, the period within which such tax is to be paid and the form of the certificate specifying the amount of tax deducted, the rate at which the tax is to be deducted and other particulars.

Clause 88 seeks to insert a new section 206CA in the Income-tax Act relating to tax-collection account number.

Under the existing provisions contained in section 206C, every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, collect from the buyer a sum equal to the percentage specified in the Table under sub-section (1) of that section.

The proposed new section seeks to provide that every person collecting tax at source in accordance with the provisions of section 206C shall apply to the Assessing Officer for the allotment of a tax-collection account number. It is further proposed that such tax-collection account number shall be quoted in all challans for

payment of any sum under sub-section (3), in all certificates furnished under sub-section (5), in all the returns delivered under sub-section (5A) or sub-section (5B) of section 206C and in all other documents pertaining to such transactions which may be specified by the Central Board of Direct Taxes by rules to be made in this behalf.

It is proposed to confer power upon the Central Board of Direct Taxes to prescribe, by rules, the form and the time within which such application shall be made to the Assessing Officer for the allotment of a tax collection account number.

Clause 115 of the Bill seeks to amend section 25 of the Customs Act, 1962. The amendment proposed by this clause confers powers upon the Central Government to insert an explanation for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), as the case may be, by notification in the Official Gazette at any time within one year of issue such notification or order, as the case may be.

Clause 123 of the Bill seeks to insert a new section 8C in the Custom Tariff Act, 1975. This clause empowers the Central Government, by notification in the Official Gazette, to impose transitional product specific safeguard duty on imports from the People's Republic of China and make rules for the purpose of this new section 8C.

Clause 128 of the Bill seeks to amend section 5A of the Central Excise Act, 1962. The amendment proposed by this clause confers powers upon the Central Government to insert an explanation for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), as the case may be, by notification in the Official Gazette at any time within one year of issue such notification or order, as the case may be.

Clause 142 of the Bill seeks to amend sub-section (2) of section 94 of the Finance Act, 1994. This clause empowers the Central Government to make rules for the purpose of the credit of service tax paid on the services consumed for providing a taxable service in case where the services consumed and the service provided fall in the same category of taxable service and sub-clause (j) of that clause seeks to substitute section 95 of the said Act which empowers the Central Government to issue order for removal of any difficulty which may arise in giving effect to any taxable service incorporated in Chapter V by the Finance Act, 2002 and also further provides that every order so published shall be laid before each House of Parliament.

The matters in respect of which notification may be issued or rules may be made in accordance with the aforesaid provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.