THE FINANCE ACT, 2011

ARRANGEMENT OF SESIONS

Excise

Central Excise Tariff

CHAPTER V

SERVICE TAX

CHAPTER VI

MISCELLANEOUS

The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 392 CUTTACK, MONDAY, MARCH 12, 2012/FALGUNA 22, 1933

LAW DEPARTMENT

NOTIFICATION

The 29th February 2012

No. 2318—I. Legis.-1/2011-L.—The following Act of Parliament which is assented by the President on the 8th April 2011 and published by the Government of India, Ministry of Law & Justice (Legislative Department) in the Gazette of India, Extraordinary, Part-II, Section 1, dated the 8th April 2011 is hereby republished for general information.

By order of the Governor

D. DASH

Principal Secretary to Government

[Assented to 8th April 2011]

THE FINANCE ACT, 2011

ACT NO 8 OF 2011

(AS PASSED BY THE HOUSES OF PARLIAMENT)

An Act to give effect to the financials proposals of the Central Government for the financial year 2011-2012

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

CHAPTER I

PRELIMINARY

Short title and commence-ment.

1. *(1)* This Act may be called the Finance Act, 2011

(2) Save as otherwise provided in this Act, Sections 2 to 35 shall be deemed to have come into force on the 1st day of April, 2011.

CHAPTER II

RATES OF INCOME-TAX

Income Tax.

2. *(1)* Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April 2011, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh sixty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause *(b)* [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh sixty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income tax in respect of the total income; and

(b) the income tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty thousand rupees, and the amount of income tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income; and

(iii) the amount of income-tax determined in accordance with sub-clause *(i)* shall be reduced by the amount of income tax determined in accordance with sub-clause *(ii)* and the sum so arrived at shall be the income tax in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item *(II)* of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh sixty thousand rupees”, the words “one lakh ninety thousand rupees” had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item *(III)* of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh sixty thousand rupees”, the words “two lakh forty thousand rupees” had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or Section 115JB or sub-section *(1A)* of Section 161 or Section 164 or Section 164A or Section 167B of the Income Tax Act, 1961 (hereinafter referred to as the Income Tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section *(1)* or the rates as specified in that Chapter or section, as the case may be: 43 of 1961

Provided that the amount of income tax computed in accordance with the provisions of Section 111A or Section 112 shall be increased by a surcharge, for purposes of the Union as provided in Paragraphs A, B, C, D or E, as the case may be, of Part I of the First Schedule :

Provided further that in respect of any income chargeable to tax under Sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB. 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union,, calculated,—

(a) in the case of a domestic company, at the rate of seven and one-half per cent. of such income-tax where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under Section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax and surcharge on such income-tax shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(4) In cases in which tax has to be charged and paid under Section 115-O or sub-section *(2)* of Section 115R of the Income tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of five per cent of such tax.

(5) In cases in which tax has to be deducted under Sections 193, 194, 194A, 194B,194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under Sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I,194J, 194LA, 194LB, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(7) In cases in which tax has to be collected under the proviso to Section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under Section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section *(10),* in cases in which income-tax has to be charged under sub-section *(4)* of Section 172 or sub-section *(2)* of Section 174 or Section 174A or Section 175 or sub-section *(2)* of Section 176 of the Income tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under Section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or Section 115JB or Section 115JC or sub-section *(1A)* of Section 161 or Section 164 or Section 164A or Section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of Section 111 A or Section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under Sections 115A 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115E and 115JB of the Income tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every domestic company, at the rate of five per cent. of such "advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate of two per cent. of such "advance tax" where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under Section 115JB of the Income tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income tax Act, income tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh eighty thousand rupees, then, in charging income tax under sub-section *(2)* of Section 174 or Section 174A or Section 175 or sub-section *(2)* of Section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause *(b)* [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh eighty thousand rupees the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh eighty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income tax or "advance tax" determined in accordance with sub-clause *(i)* shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause *(ii)* and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous years, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words''one lakh eighty thousand rupees'', the words ''two lakh fifty thousand rupees'' had been substituted:

Provided also that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (IV) of Paragraph A of

Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words ‘‘one lakh eighty thousand rupees’’, the words ‘‘five lakh rupees’’ had been substituted.

(11) The amount of income-tax as specified in sub-sections *(1)* to *(10)* and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the ‘‘Education Cess on income tax’’, calculated at the rate of two per cent of such income tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education :

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income tax Act mentioned in sub-sections *(5), (6), (7)* and *(8)* if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections *(1)* to *(10)* and as increased by the applicable sucharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional sucharge, for purposes of the Union, to be called the ‘‘Secondary and Higher Education Cess on income-tax’’, calculated at the rate of one per cent of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income tax Act mentioned in sub-sections *(5), (6), (7)* and *(8)* if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) ‘‘domestic company’’ means an India company or any other company which, in respect of its income liable to income tax under the Income tax Act, for the assessment year commencing on the 1st day of April 2011 has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) ‘‘ insurance commission’’ means any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) ‘‘ net agricultural income’’, in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and First Schedule but not defined in this sub-section and defined in the Income tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-Tax

Amendment of Section 2.

3. In Section 2 of the Income-tax Act, in clause *(15).,* in the second proviso, for the words "ten lakh rupees", the words "twenty-five lakh rupees" shall be substituted with effect from the 1st day of April, 2012.

Amendment of Section 10.

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

(a) in clause *(34),* the Explanation [as so inserted by the Special Economic Zones Act, 2005] shall be omitted with effect from the 1st day of June, 2011; 28 of 2005.

(b) after clause *(44),* the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2008, namely:—

"(45) any allowance or perquisite, as may be notified by the Central Government in the Official Gazette in this behalf paid to the Chairman or a retired Chairman or any other member or retired member of the Union Public Service Commission;";

(c) after clause *(45)* as so inserted, the following shall be inserted with effect from the 1st day of June, 2011, namely:—

(46) any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which—

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(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 a body or authority or Board or Trust or Commission (by whatever name called) referred to this clause which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(47) any income of an infrastructure debt fund, set up in accordance with the guidelines as may be prescribed, which is notified by the Central Government in the Official Gazette for the purposes of this clause.'.

Amendment of Section 35.

5. In Section 35 of the Income Tax Act, in sub-section *(2AA),* in clause (a), for the words "one and three-fourth'', the word ''two'' shall be substituted with effect from the 1st day of April, 2012.

Amendment of Section 35AD.

6. In Section 35AD of the Income-tax Act,—

(a) in sub-section (5), with effect from the 1st day of April, 2012—

(i) in clause *(ac),* the.word "and" occurring at the end shall be omitted ;

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

"(ad) on or after the 1st day of April, 2011, where the specified business is in the nature of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(ae) on or after the 1st day of April, 2011, in a new plant or in a newly installed capacity in an existing plant for production of fertilizer; and";

(iii) in clause *(b)*, for the words, brackets and letters "and clause (ac)", the words, brackets and letters "clause *(ac),* clause *(ad)* and clause *(ae)"* shall be substituted;

(b) in sub-section *(8),* in clause *(c),*—

(i) in sub-clause *(iv),* for the words "new hotel", the word "hotel" shall be substituted;

(ii) in sub-clause *(v),* for the words "new hospital", the word "hospital" shall be substituted;

(iii) after sub-clause (vi), the following sub-clauses shall be inserted with effect from the 1st day of April, 2012, namely:—

"(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(viii) production of fertilizer in India;".

Amendment of Section 36.

7. In Section 36 of the Income-tax Act, in sub-section *(1)*, after clause *(iv),* the following shall be inserted with effect from the 1st day of April, 2012, namely:—

'(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in Section 80CCD, on account of an employee to the extent it does not exceed ten per cent. of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;'.

Amendment of Section 40A.

8. In Section 40A of the Income-tax Act, in sub-section (9), after the words, brackets and figures "under clause *(iv)"*, the words, brackets, figures and letter "or clause *(iva)"* shall be inserted with effect from the 1st day of April, 2012.

Amendment of Section 80CCE.

9. In Section 80CCE of the Income-tax Act, for the word, figures and letters "Section 80CCD", the words, brackets, figures and letters "sub-section *(1)* of Section 80CCD" shall be substituted with effect from the 1st day of April, 2012.

Amendment of Section 80CCF.

10. In Section 80CCF of the Income-tax Act, after the words, figures and letters "previous year relevant to the assessment year beginning on the 1st day of April, 2011", the words, figures and letters " or to the assessment year beginning on the 1st day of April, 2012" shall be inserted with effect from the 1st day of April, 2012.

Amendment of Section 80-IA.

11. In Section 80-IA of the Income tax Act, in sub-section *(4)*, in clause *(iv)*, for the words, figures and letters "the 31 st day of March, 2011", wherever they occur, the words, figures and letters "the 31st day of March, 2012" shall be substituted with effect from the 1st day of April, 2012.

Amendment of Section 80-IB .

12. In Section 80-IB of the Income tax Act, in sub-section *(9)*, in clause *(ii),* the following proviso shall be inserted with effect from the 1st day of April, 2012, namely:—

"Provided that the provisions of this clause shall not apply to blocks licensed under a contract awarded after the 31st day of March, 2011 under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/ 22/95-ONG.DO.VL., dated the 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner;".

Amendment of Section 92C.

13. In Section 92C of the Income-tax Act, in sub-section (2), in the second provisio, for the words ''five per cent of the latter'', the words ''such percentage of the latter, as may be notified by the Central Government in the Official Gazette in this behalf'' shall be substituted with effect from the 1st day of April 2012.

Amendment of Section 92CA.

14. In Section 92CA of the Income tax Act, with effect from the 1st day of June, 2011,—

(i) after sub-section *(2)*, the following sub-section shall be inserted, namely:—

''*(2A)* Where any other international transaction [other than an international transaction referred under sub-section *(1)*], comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as if such other international transaction is an international transaction referred to him under sub-section (1).'';

(ii) in sub-section *(7),* after the word and figures ''Section 133'', the words, figures and letter ''or Section 133A'' shall be inserted.

Insertion of new Section 94A.

15. After Section 94 of the Income-tax Act, the following Section shall be inserted with effect from the 1st day of June, 2011, namely :—

Special measures in respect of transactions with persons located in notified jurisdictional area.

'94A. (1) The Central Government may, having regard to the lack of effective exchange of information with any country or territory outside India, specify by notification in the Official Gazette such country or territory as a notified jurisdictional area in relation to transactions entered into by any assessee.

(2) Notwithstanding anything to the contrary contained in this Act, if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdicational area, then—

(i) all the parties to the transaction shall be deemed to be associated interprises within the meaning of Section 92A;

(ii) any transaction in the nature of purchase, sale or lease of trangible or intangible property or provision of service or lending or borrowing money or any other transaction having a bearing on the profits, income, losses or assets of the assessee including a mutual agreement or arrangement for allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided by or to the assessee shall be deemed to be an international transaction within the meaning of Section 92B,

and the provisions of Sections 92, 92A, 92B, 92C [except the second proviso to sub-section (2)], 92CA, 92CB, 92D, 92E and 92F shall apply accordingly.

(3) Notwithstanding anything to the contrary contained in this Act, no deduction,—

(a) in respect of any payment made to any financial institution located in a notified jurisdictional area shall be allowed under this Act, unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution on behalf of such assessee;and

(b) in respect of any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area shall be allowed under any other provision of this Act, unless the assessee maintains such other documents and furnishes such information as may be prescrined, in this behalf.

(4) Notwithstanding anything to the contrary contained in this Act, where, in any previous year, the assessee has received or credited any sum from any person located in a notified jurisdictional area and the assessee does not offer any explanation about the source of the said sum in the hands of

such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum) or the explanation offered by the assessee, in the opinion of the assessing officer, is not satisfactory, then, such sum shall be deemed to be the income of the assessee for that previous year.

(5) Notwithstanding anything contained in any other provisions of this Act, where any person located in a notified jurisdictional area is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVII-B, the tax shall be deducted at the highest of the following rates, namely :—

(a) at the rate or rates in force;

(b) at the rate specified in the relevant provisions of this Act;

(c) at the rate of thirty per cent.

(6) In this section,—

(i) "person located in a notified jurisdictional area" shall include,—

(a) a person who is resident of the notified jurisdictional area;

(b) a person, not being an individual, which is established in the notified jurisdictional area; or

(c) a permanent establishment of a person not falling in sub-clause *(a)* or sub-clause (b), in the notified jurisdictional area;

(ii) "permanent establishment" shall have the same meaning as defined in clause *(iiia)* of Section 92F;

(iii) '' transaction'' shall have the same meaning as defined in clause *(v)* of Section 92F.'.

16. In Section 115A of the Income-tax Act, in sub-section *(1),* in clause *(a),* with effect from the 1st day of June 2011,—

Amendment of Section 115A.

(a) in sub-clause (ii), after the words "foreign currency", the words, brackets figures and letter ''not being interest of the nature referred to in clause *(iia)"* shall be inserted;

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

"(iia) interest received from an infrastructure debt fund referred to in clause *(47)* of Section 10; or";

(c) after item *(B),* the following item shall be inserted, namely—

"(BA) the amount of income-tax calculated on the amount of income by way of interest referred to in sub-clause *(iia),* if any, included in the total income at the rate of five per cent.;";

(d) in item *(D),* after the word, brackets and figures ''sub-clause *(ii)"*, the word, brackets, figures and letter ''sub-clause *(iia),* shall be inserted.

Insertion of new Section 115BBD.

17. After Section 115BBC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2012, namely :—

Tax on certain dividends received from foreign companies.

'115BBD. *(1)* Where the total income of an assessee, being an Indian company, for the previous year relevant to the assessment year beginning on the 1st day of April, 2012 includes any income by way of dividends declared, distributed or paid by a specified foreign company, the income-tax payable shall be the aggregate of—

(a) the amount of income-tax calculated on the income by way of such dividends, at the rate of fifteen per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable had its total income been reduced by the aforesaid income by way of dividends.

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing its income by way of dividends referred to in sub-section *(1).*

(3) In this section,—

(i) "dividends" shall have the same meaning as is given to "dividend" in clause *(22)* of Section 2 but shall not include sub-clause *(e)* thereof;

(ii) "specified foreign company" means a foreign company in which the Indian company holds twenty-six per cent. or more in nominal value of the equity share capital of the company.'.

Amendment of Section 115JB.

18. In Section 115JB of the Income-tax Act,—

(i) in sub-section *(1)* with effect from the 1st day of April, 2012,—

(a) for the words, figures and letters "the 1st day of April, 2011", the words, figures and letters "the 1st day of April, 2012" shall be substituted;

(b) for the words "eighteen per cent.", at both the places where they occur, the words "eighteen and one-half per cent." shall be substituted;

(ii) after sub-section *(2),* in *Explanation* 1, clause *(iv),* clause *(v)* and clause *(vi)* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 2005;

(iii) in sub-section (6) [as so inserted by the Special Economic Zones Act, 2005], the following proviso shall be inserted with effect from the 1st day of April, 2012, namely:— 28 of 2005.

"Provided that the provisions of this sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012.".

Insertion of new Chapter XII-BA.

19. After Chapter XII-B of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2012, namely:—

'CHAPTER XII-BA

SPECIAL PROVISIONS RELATING TO CERTAIN LIMITED LIABILITY PARTNERSHIPS

Special provisions for payment of tax by certain limited liability partner-ships.

15JC *(1)* Notwithstanding anything contained in this Act, where the regular income-tax payable for a previous year by a limited liability partnership is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of the limited liability partnership for such previous year and it shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

(2) Adjusted total income referred to in sub-section *(1)* shall be the total income before giving effect to this Chapter as increased by—

(i) deductions claimed, if any, under any section included in Chapter VI-A under the heading *"C.—Deductions in respect of certain incomes "; and*

(ii) deduction claimed, if any, under Section 10AA.

(3) Every limited liability partnership to which this section applies shall obtain a report, in such form as may be prescribed, from an accountant certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report on or before the due date of filing of return under sub-section *(1*) of Section 139.

Tax credit for alternate minimum tax.

115JD. *(1)* The credit for tax paid by a limited liability partnership under Section 115JC shall be allowed to it in accordance with the provisions of this section.

(2) The tax credit of an assessment year to be allowed under sub-section *(1)* shall be the excess of alternate minimum tax paid over the regular income tax payable of that year.

(3) No interest shall be payable on tax credit allowed under sub-section *(1)*.

(4) The amount of tax credit determined under sub-section *(2)* shall be carried forward and set off in accordance with the provisions of sub-sections *(5)* and *(6)* but such carry forward shall not be allowed beyond the tenth assessment year immediately succeeding the assessment year for which tax credit becomes allowable under sub-section *(1).*

(5) In any assessment year in which the regular income tax exceeds the alternate minimum tax, the tax credit shall be allowed to be set off to the extent of the excess of regular income-tax over the alternate minimum tax and the balance of the tax credit, if any, shall be carried forward.

(6) If the amount of regular income-tax or the alternate minimum tax is reduced or increased as a result of any order passed under this Act, the amount of tax credit allowed under this section shall also be varied accordingly.

Application of other provisions of this Act.

115JE. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to a limited liability partnership referred to in this Chapter.

Interpretation in this Chapter.

115F. In this Chapter

(a) "accountant" shall have the same meaning as in the Explanation below sub-section *(2)* of Section 288;

(b) "alternate minimum tax" means the amount of tax computed on adjusted total income at a rate of eighteen and one-half per cent.;

(c) "limited liability partnership" shall have the same meaning as assigned to it in clause *(n)* of sub-section *(1)* of Section 2 of the Limited Liability Partnership Act, 2008; 6 of 2009

(d) "regular income tax" means the income-tax payable for a previous year by a limited liability partnership on its total income in accordance with the provisions of this Act other than the provisions of this Chapter.'.

Amendment of Section 115-O.

20. In Section 115-O of the Income-tax Act, in sub-section *(6)* [as so inserted by the Special Economic Zones Act, 2005], the following proviso shall be inserted with effect from the 1st day of June, 2011, namely:— 28 of 2005.

"Provided that the provisions of this sub-section shall cease to have effect from the 1st day of June, 2011.".

Amendment of Section 115-R.

21. In Section 115R of the Income tax Act, in sub-section *(2),* with effect from the 1st day of June, 2011,—

(a) in clause *(i),* for the words "income distributed", the words "income distributed to any person being an individual or a Hindu undivided family" shall be substituted;

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

"(ia) thirty per cent. on income distributed to any other person by a money market mutual fund or a liquid fund;";

(c) in clause *(iii),* for the words "twenty per cent.", the words "thirty per cent." shall be substituted.

Amendment of Section 131.

22. In Section 131 ofthe Income tax Act, with effect from the 1st day of June, 2011,—

(i) after sub-section *(IA),* the following sub-section shall be inserted, namely:—

"(2) For the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in Section 90 or Section 90A, it shall be competent for any

income tax authority not below the rank of Assistant Commissioner of Income-tax, as may be notified by the Board in this behalf, to exercise the powers conferred under sub-section *(1)* on the income tax authorities referred to in that sub-section, not withstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.";

(ii) in sub-section *(3),* after the words, brackets, figure and letter "or sub-section *(1A)*" the words, brackets and figure "or sub-section *(2)"'* shall be inserted.

Amendment of Section 133.

23. In Section 133 of the Income tax Act, after the second proviso, the following proviso shall be inserted with effect from the 1st day of June, 2011, namely:—

"Provided also that for the purposes of an agreement referred to in Section 90 or Section 90A, an income tax authority notified under sub-section *(2)* of Section 131 may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income tax authority.".

Amendment of Section 139.

24. In Section 139 of the Income-tax Act,—

(a) in sub-section *(1),* in *Explanation* 2,—

(i) in clause *(a),* in sub-clause *(i),* after the words "a company", the words, brackets and letters "other than a company referred to in clause *(aa)"* shall be inserted;

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

"(aa) in the case of an assessee being a company, which is required to furnish a report referred to in Section 92E, the 30th day of November of the assessment year;";

(b) after sub-section *(1B),* the following sub-section shall be inserted with effect from the 1st day of June, 2011, namely:—

"(1C) Notwithstanding anything contained in sub-section *(1)*, the Central Government may, by notification in the Official Gazette, exempt any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification.";

(c) in sub-section *(4C),* with effect from the 1st day of June, 2011,—

(i) after clause *(F)* and before the words "shall, if the total income", the following clauses shall be inserted, namely:—

"*(g)* body or authority or Board or Trust or Commission (by whatever name called) referred to in clause *(46)* of Section 10;

(h) infrastructure debt fund referred to in clause *(47)* of Section 10,";

(ii) after the words "medical institution or trade union", the words "or body or authority or Board or Trust or Commission or infrastructure debt fund" shall be inserted.

Amendment of Section 143.

25. In Section 143 of the Income tax Act, in sub-section *(1B),* for the words, figures and letters "the 31st day of March, 2011", the words, figures and letters "the 31st day of March, 2012" shall be substituted.

Amendment of Section 153.

26. In Section 153 of the Income tax Act, in *Explanation* 1, with effect from the 1st day of June, 2011,—

(a) in clause *(vii),* for the word, figures and letter "Section 245R,", the words, figures and letter "Section 245R, or" shall be substituted;

(b) after clause *(vii)* and before the words "shall be excluded", the following clause shall be inserted, namely:—

"(viii) the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in Section 90 or Section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of six months, whichever is less,".

Amendment of Section 153B.

27. In Section 153B of the Income-tax Act, in sub-section *(1),* in the *Explanation,* with effect from the 1st day of June, 2011,—

(a) in clause *(vii),* for the words "by the Commissioner,", the words "by the Commissioner; or" shall be substituted; ;

(b) after clause *(vii)* and before the words "shall be excluded", the following clause shall be inserted, namely:—

"(viii) the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in Section 90 or Section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of six months, whichever is less,".

Insertion of new Section 194LB.

28. After Section 194LA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2011, namely:—

Income by way of interest from infrastructure debt fund.

194LB. Where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause *(47)* of Section 10, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income tax thereon at the rate of five per cent.".

Amendment of Section 245C.

29. In Section 245C of the Income-tax Act, in sub-section *(1),* with effect from the 1st day of June, 2011,—

(a) in the proviso, after clause *(i),* the following clause shall be inserted, namely:—

''(ia) in a case where—

(A) the applicant is related to the person referred to in clause *(i)* who has filed an application (hereafter in this sub-section referred to as "specified person"); and

(B) the proceedings for assessment or re-assessment for any of the assessment years referred to in clause *(b)* of sub-section *(1)* of Section153A or clause *(b)* of sub-section *(1)* of Section I53B in case of the applicant, being a person referred to in Section 153A or Section 153C, have been initiated,

the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,';

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

"Explanation.— For the purposes of clause *(ia),*—

(a) the applicant, in relation to the specified person referred to in clause *(ia),* means,—

(i) where the specified person is an individual, any relative of the specified person;

(ii) where the specified person is a company, firm, association of persons or Hindu undivided family, any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(iii) any individual who has a substantial interest in the business or profession of the specified person, or any relative of such individual;

(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the specified person or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the specified person; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,—

(A) where the specified person being an individual, or any relative of such specified person, has a substantial interest in the business or profession of that person; or

(B) where the specified person being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person;

(b) a person shall be deemed to have a substantial interest in a business or profession, if—

(A) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power; and

(B) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent. of the profits of such business or profession.".

Amendment of Section 245D.

30. In Section 245D of the Income-tax Act, after sub-section *(6A),* the following sub-section shall be inserted with effect from the 1st day of June, 2011, namely:—

"(6B) The Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section *(4):*

Provided that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.".

Omission of Section 282B.

31. Section 282B of the Income-tax Act shall be omitted.

Insertion of new Section 285.

32. After Section 284 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2011, namely :—

Submission of statement by a non-resident having liaison office.

"285. Every person, being a non-resident having a liason office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall, in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within sixty days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed.''. 42 of 1999.

Amendment of Section 296.

33. In Section 296 of the Income-tax Act, after the words and figures " of Section 10'' the words, brackets, figures and letter "and every notification issued under sub-section *(IC)* of section 139" shall be inserted with effect from the 1st day of June, 2011.

Amendment of Fouth Schedule.

34. In the Fourth Schedule to the Income-tax Act, in Part A, in Rule 3, in sub-rule *(1),* in the first proviso, for the figures, letters and words "31st day of December, 2010", the figures, letters and words "31st day of March, 2012'' shall be substituted and shall be deemed to have been substituted with effect from the 1st day of January, 2011.

Wealth-tax

Amendment of Section 22D of Act 27 of 1957.

35. In Section 22D of the Wealth-tax Act, 1957, after sub-section *(6A),* the following sub-section shall be inserted with effect from the 1st day of June, 2011, namely:—

''*(6B)* The Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section *(4):*

Provided that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.''.

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of Section 2.

36. In Section 2 of the Customs Act, 1962 (hereinafter referred to as the Customs Act, for clause *(2),* the following clause shall be substituted, namely:— 52 of 1962.

'*(2)* "assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;'.

Amendment of Section 3.

37. In Section 3 of the Customs Act, in clause *(e),* the words "or Deputy Commissioner of Customs" shall be omitted.

Substitution of new section for Section 17.

38. For Section 17 of the Customs Act, the following section shall be substituted, namely:—

Assessment of duty.

"17*. (1)* An importer entering any imported goods under Section 46, or an exporter entering any export goods under Section 50 shall, save as otherwise provided in Section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the self-assessment of such goods and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

(3) For verification of self-assessment under sub-section *(2),* the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, insurance policy, catalogue or other document, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and to furnish any information required for such ascertainment which is in his power to produce or furnish, and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section *(4)* is contrary to the self-assessment done by the importer or exporter regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

(6) Where re-assessment has not been done or a speaking order has not been passed on re-assessment, the proper officer may audit the assessment of duty of the imported goods or export goods at his office or at the premises of the importer or exporter, as may be expedient, in such manner as may be prescribed.

Explanation.— For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under Section 46 or an exporter has entered any export goods under Section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of Section 17 as it stood immediately before the date on which such assent is received.".

Amendment of Section 18.

39. In Section 18 of the Customs Act,—

(a) for sub-section *(1),* the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in this Act but without prejudice to the provisions of Section 46,—

(a) where the importer or exporter is unable to make self-assessment under sub-section *(1)* of Section *17* and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry,

the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed or re-assessed, as the case may be, and the duty provisionally assessed.";

(b) in sub-section *(2),*—

(i) in the opening portion, after the words "assessed finally", the words "or re-assessed by the proper officer" shall be inserted;

(ii) for the words "finally assessed" wherever they occur, the words "finally assessed or re-assessed, as the case may be," shall be substituted;

(c) in sub-section *(3),* after the words "final assessment order", the words ''or re-assessment order" shall be inserted;

(d) in sub-section *(4),* after the words "duty finally", the words "or re-assessment of duty, as the case may be," shall be inserted.

Amendment of Section 19.

40. In Section 19 of the Customs Act, in the proviso, in clause *(b),* after the words "proper officer", the words "or the evidence is available" shall be inserted.

Amendment of Section 27.

41. In Section 27 of the Customs Act, for sub-section *(1),* the following sub-sections shall be substituted, namely:—

'(1) Any person claiming refund of any duty or interest—

(a) paid by him; or

(b) borne by him,

may make an application in such form and manner as may be prescribed for such refund to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, before the expiry of one year, from the date of payment of such duty or interest:

Provided that where an application for refund has been made before the date on which the Finance Bill, 2011 receives the assent of the President, such application shall be deemed to have been made under sub-section *(1),* as it stood before the date on which the Finance Bill, 2011 receives the assent of the President and the same shall be dealt with in accordance with the provisions of sub-section *(2):*

Provided further that the limitation of one year shall not apply where any duty or interest has been paid under protest.

Explanation.—For the purposes of this sub-section, "the date of payment of duty or interest" in relation to a person, other than the importer, shall be construed as "the date of purchase of goods" by such person.

(1A) The application under sub-section *(1)* shall be accompanied by such documentary or other evidence (including the documents referred to in Section 28C) as the applicant may furnish to establish that the amount of duty or interest in relation to which such refund is claimed was collected from, or paid by him and the incidence of such duty or interest, has not been passed on by him to any other person.

(1B) Save as otherwise provided in this section, the period of limitation of one year shall be computed in the following manner, namely:—

(a) in the case of goods which are exempt from payment of duty by a special order issued under sub-section *(2)* of Section 25, the limitation of one year shall be computed from the date of issue of such order;

(b) where the duty becomes refundable as a consequence of any judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year shall be computed from the date of such judgment, decree, order or direction;

(c) where any duty is paid provisionally under Section 18, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof or in case of re-assessment, from the date of such re-assessment'.

Substitution of new section for Section 28.

42. For Section 28 of the Customs Act, the following section shall be substituted namely:—

Recovery of duties not levied or short-levied or erroneously refunded.

'28. *(1)* Where any duty has not been levied or has been short-levied or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,—

(a) the proper officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty or interest which

has not been so levied or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

(b) the person chargeable with the duty or interest may pay, before service of notice under clause *(a),* on the basis of—

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

the amount of duty along with the interest payable thereon under Section 28AA or the amount of interest which has not been so paid or part-paid.

(2) The person who has paid the duty along with interest or amount of interest under clause *(b)* of sub-section *(1)* shall inform the proper officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause *(a)* of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest.

(3) Where the proper officer is of the opinion that the amount paid under clause *(b)* of sub-section *(1)* falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause *(a)* of that sub-section in respect of such amount which fails short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section *(2).*

(4) Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reson of—

(a) collusion; or

(b) any wilful mis-statement; or

(c) supression of facts,

by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or has been short-levied or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under

sub-section *(4)* by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under Section 28AA and the panalty equal to twenty-five per cent of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid the duty with interest and penalty under sub-section *(5),* the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion—

(i) that the duty with interest and panalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section *(1)* or sub-section *(4),* shall, without prejudice to the provisions of Sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice as provided for in clause *(a)* of sub-section *(1)* in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section *(5).*

(7) In computing the period of one year referred to in clause *(a)* of sub-section *(1)* or five years referred to in sub-section *(4),* the period during which there was any stay by an order of a Court or Tribunal in respect of payment of such duty or interest shall be excluded.

(8) The proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation, if any, made by such person, determine the amount of duty or interest due from such person not being in excess of the amount specified in the notice.

(9) The proper officer shall determine the amount of duty or interest under sub-section *(8),*-—

(a) within six months from the date of notice, where it is possible to do so, in respect of cases falling under clause *(a)* of sub-section (*1);*

(b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under sub-section *(4).*

(10) Where an order determining the duty is passed by the proper officer under this section, the person liable to pay the said duty shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

Explanation 1.—For the purposes of this section, "relevant date" means,—

(a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;

(b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof or re-assessment, as the case may be;

(c) in a case where duty or interest has been erroneously refunded, the date of refund;

(d) in any other case, the date of payment of duty or interest.

Explanation 2.—For the removal of doubts, it is hereby declared that any non-levy, short-levy or erroneous refund before the date on which the Finance Bill, 2011 receives the assent of the President, shall continue to be governed by the provisions of Section 28 as it stood immediately before the date on which such assent is received.'.

Substitution of new section for sections 28AA and 28AB.

43. For Sections 28AA and 28AB of the Customs Act, the following section shall be substituted, namely:—

Interest on delayed payment of duty.

"28AA. *(1)* Notwithstanding anything contained in any judgment, decree, order or direction of any court Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of Section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section *(2),* whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest, at such rate not below ten per cent and not exceeding thirty-six per cent per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of Section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(3) Notwithstanding anything contained in sub-section *(1)*, no interest shall be payable where,—

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under Section 151 A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.".

Amendment of Section 46.

44. In section 46 of the Customs Act,—

(a) in sub-section *(1),*—

(i) after the words "by presenting", the word "electronically" shall be inserted;

(ii) for the words "Provided that", the following shall be substituted, namely:—

"Provided that the Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner :

Provided further that";

(b) in sub-section *(4),* the words "at the foot thereof'' shall be omitted.

Amendment of Section 50.

45. In Section 50 of the Customs Act,—

(a) in sub-section *(1)*,—

(i) after the words "thereof by presenting", the word "electronically" shall be inserted;

(ii) the following proviso shall be inserted, namely:—

"Provided that the Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner.";

(b) in sub-section *(2),* the words "at the foot thereof'' shall be omitted.

Amendment of Section 75.

46. In Section 75 of the Customs Act, in sub-section *(1)*, in the second proviso, after the words "such drawback shall", the words "except under such circumstances or such conditions as the Central Government may, by rules, specify," shall be inserted.

Amendment of Section 110A.

47. In Section 110A of the Customs Act, for the words "adjudicating officer" and "Commissioner of Customs", the words "adjudicating authority" shall be substituted.

Amendment of Section 114A.

48. In Section 114A of the Customs Act,—

(a) for the words, brackets and figures "sub-section *(2)* of section 28", wherever they occur, the words, brackets and figures "sub-section *(8)* of section 28" shall be substituted;

(b) for the figures and letters "28AB", at both the places where they occur, the figures and letters "28AA" shall be substituted.

Amendment of Section 124.

49. In Section 124 of the Customs Act, for the words "a Deputy Commissioner of Customs", the words "an Assistant Commissioner of Customs" shall be substituted.

Insertion of new Section 131BA.

50. After Section 131B of the Customs Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of October, 2010, namely:—

Appeal not to be filed in certain cases.

"131BA. *(1)* The Board may, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal, application, revision or reference by the Commissioner of Customs under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions, issued under sub-section *(1),* the Commissioner of Customs has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such Commissioner of Customs from filing any appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the Commissioner of Customs pursuant to the orders or instructions or directions issued under sub-section *(1)*, no person, being a party in appeal, application, revision or reference shall contend that the Commissioner of Customs has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(4) The Appellate Tribunal or court hearing an appeal, application, revision or reference shall have regard to the circumstances under which the appeal, application, revision or reference was not filed by the Commissioner of Customs in pursuance of the orders or instructions or directions issued under sub-section *(1).*

(5) Every order or instruction or direction issued by the Board on or after the 20th day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing appeal, application, revision or reference shall be deemed to have been issued under sub-section *(1)*, and the provisions of sub-sections *(2), (3)* and *(4)* shall apply accordingly.".

Insertion of new Section 142A.

51. After Section 142 of the Customs Act, the following section shall be inserted, namely:—

Liability under Act to be first charge.

"142A. Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest or any other sum payable by an assessee or any other person under this Act, shall, save as otherwise provided in Section 529A of the Companies Act, 1956, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the assessee or the person, as the case may be.". 1 of 1956. 51 of 1993. 54 of 2002.

Amendment of Section 150.

52. In Section 150 of the Customs Act, in sub-section *(2)*, the following proviso shall be inserted, namely:—

"Provided that where it is not possible to pay the balance of sale proceeds, if any, to the owner of the goods within a period of six months from the date of sale of such goods or such further period as the Commissioner of Customs may allow, such balance of sale proceeds shall be paid to the Central Government.".

Amendment of Section 151A.

53. In Section 151 A of the Customs Act, after the words "levy of duty thereon", the words "or for the implementation of any other provision of this Act or of any other law for the time being in force, in so far as they relate to any prohibition, restriction or procedure for import or export of goods" shall be inserted.

Amendment of Section 157.

54. In Section 157 of the Customs Act, in sub-section *(2),* after clause *(c)*, the following clause shall be inserted, namely:—

"(d) the manner of conducting audit of the assessment of duty of the imported or export goods at the office of the proper officer or the premises of the importer or exporter, as the case may be.".

Amendment of notifications issued under Section 25 of Customs Act.

55. *(1)* The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 605(E), dated the 10th September, 2004, G.S.R. 282(E), dated the 9th May, 2005, G.S.R. 528(E), dated the 1st September, 2006, G.S.R. 529(E), dated the 1st September, 2006, G.S.R. 349(E), dated the 9th May, 2008 and G.S.R. 878(E), dated the 24th December, 2008 issued under sub-section *(1)* of Section 25 of the Customs Act shall stand amended and shall be deemed to have been amended in the manner specified against each of them in column *(3)* of the Second Schedule on and from the corresponding date mentioned in column *(4)* of that Schedule retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(2) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of Section 25 of the Customs Act, retrospectively, at all material times.

Explanation.— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Special provisions exempting duty of customs on certain imports of fresh garlic.

56. Notwithstanding anything contained in sub-section *(1)* of Section 25 of the Customs Act, the item and its description specified under column *(1)* in the Third Schedule shall be and shall be deemed to have been exempted as specified in the said column on and from the corresponding date specified in column *(2)* thereof.

Amendment of Section 3.

57. In Section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in sub-section *(2),* in the proviso, in clause *(a),* for the words and figures "Standards of Weights and Measures Act, 1976", the words and figures "Legal Metrology Act, 2009" shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint. 51 of 1975. 60 of 1976. 1 of 2010.

Amendment of Section 9A.

58. In Section 9A of the Customs Tariff Act, after sub-section *(1),* the following sub-section shall be inserted, namely:—

"(1A) Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed under sub-section *(1)* has taken place, either by altering the description or name or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be.".

Amendment of Section 9AA.

59. In Section 9AA of the Customs Tariff Act, in sub-section *(1),* for the portion beginning with the words " Where an importer proves" and ending with the words "entitled to refund of such excess duty", the following shall be substituted, namely:—

"Where upon determination by an officer authorised in this behalf by the Central Government under clause *(ii)* of sub-section *(2),* an importer proves to the satisfaction of the Central Government that he has paid anti-dumping duty imposed under sub-section *(1)* of Section 9A on any article, in excess of the actual margin of dumping in relation to such article, the Central Government shall, as soon as may be, reduce such anti-dumping duty as is in excess of actual margin of dumping so determined, in relation to such article or such importer, and such importer shall be entitled to refund of such excess duty".

Amendment of First Schedule and Second Schedule.

60. In the Customs Tariff Act,—

(a) the First Schedule shall,—-

(i) be amended in the manner specified in the Fourth Schedule;

(ii) also be amended in the manner specified in the Fifth Schedule with effect from the 1st day of January, 2012;

(b) the Second Schedule shall be amended in the manner specified in the Sixth Schedule.

Special provisions to impose final safeguard duty on Caustic Soda lye during certain period.

61. *(1)* Notwithstanding anything contained in sub-section *(1)* of Section 8B of the Customs Tariff Act, safeguard duty at the rate, on the item specified under column *(1)* in the Seventh Schedule shall be and shall be deemed to have been imposed for the period specified in column *(2)* thereof.

(2) Nothing contained in sub-section *(1)* shall apply to imports of Caustic Soda lye from countries notified as developing countries under clause *(a)* of sub-section *(6)* of Section 8B of the said Act, other than the People's Republic of China, Indonesia, Qatar, Saudi Arabia and Thailand.

Excise

Amendment of Section 4A.

62. In Section 4A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in sub-section *(1),* for the words and figures "Standards of Weights and Measures Act, 1976", the words and figures "Legal Metrology Act, 2009" shall be substituted with effect from such date as the Central Government may, by notification in the Official *Gazette,* appoint. 1 of 1944. 60 of 1976. 1 of 2010.

Substitution of new section for Section 11A.

63. For Section 11A of the Central Excise Act, the following section shall be substituted, namely:—

Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.

'11A. *(1)* Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,—

(a) the Central Excise Officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

(b) the person chargeable with duty may, before service of notice under clause *(a),* pay on the basis of—

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the Central Excise Officer,

the amount of duty along with interest payable thereon under Section 11 AA.

(2) The person who has paid the duty under clause *(b)* of sub-section *(1),* shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause *(a)* of that sub-section in respect of the duty so paid or any penalty leviable under the provisions ot this Act or the rules made thereunder.

(3) Where the Central Excise Officer is of the opinion that the amount paid under clause *(b)* of sub-section *(1)* falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause *(a)* of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section *(2).*

(4) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by the reason of—

(a) fraud; or

(b) collusion; or

(c) any wilful mis-statement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,

by any person chargeable with the duty, the Central Excise Officer shall, within five years from the relevant date, serve notice on such person requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under Section 11AA and a penalty equivalent to the duty specified in the notice.

(5) Where, during the course of any audit, investigation or verification, it is found that any duty has not been levied or paid or short-levied or short-paid or erroneously refunded for the reason mentioned in clause *(a)* or clause *(b)* or clause *(c)* or clause *(d)* or clause *(e)* of sub-section *(4)* but the details relating to the transactions are available in the specified records, then in such cases, the Central Excise Officer shall within a period of five years from the relevant date, serve a notice on the person chargeable with the duty requiring him to show cause why he should not pay the amount specified in the notice along with interest under Section 11 AA and penalty equivalent to fifty per cent of such duty.

(6) Any person chargeable with duty under sub-section *(5)* may, before service of show cause notice on him, pay the duty in full or in part, as may be accepted by him along with the interest payable thereon under S ection 11AA and penalty equal to one per cent. of such duty per month to be calculated from the month following the month in which such duty was payable, but not exceeding a maximum of twenty-five per cent of the duty, and inform the Central Excise Officer of such payment in writing.

(7) The Central Excise Officer, on receipt of information under sub-section *(6)*, shall—

(i) not serve any notice in respect of the amount so paid and all proceedings in respect of the said duty shall be deemed to be concluded where it is found by the Central Excise Officer that the amount of duty, interest and penalty as provided under sub-section *(6)* has been fully paid;

(ii) proceed for recovery of such amount, if found to be short-paid, in the manner specified under sub-section *(1)* and the period of one year shall be computed from the date of receipt of such information.

(8) In computing the period of one year referred to in clause *(a)* of sub-section *(1)* or five years referred to in sub-section *(4)* or sub-section *(5),* the period during which there was any stay by an order of the court or tribunal in respect of payment of such duty shall be excluded.

(9) Where any appellate authority or tribunal or court concludes that the notice issued under sub-section *(4)* is not sustainable for the reason that the charges of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty has not been established against the person to whom the notice was issued, the Central Excise Officer shall determine the duty of excise payable by such person for the period of one year, deeming as if the notice were issued under clause *(a)* of sub-section *(1).*

(10) The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice.

(11) The Central Excise Officer shall determine the amount of duty of excise under sub-section *(10)*—

(a) within six months from the date of notice, where it is possible to do so, in respect of cases falling under sub-section *(1);*

(b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under sub-section *(4)* or sub-section *(5).*

(12) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section *(10),* then the amount of penalties and interest under this section shall stand modified accordingly, taking into account the amount of duty of excise so modified.

(13) Where the amount as modified by the appellate authority or tribunal or court is more than the amount determined under sub-section *(10)* by the Central Excise Officer the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority or tribunal or court in respect of such increased amount.

(14) Where an order determining the duty of excise is passed by the Central Excise Officer under this section, the person liable to pay the said duty of excise shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

(15) The provisions of sub-sections *(1)* to *(14)* shall apply, *mutatis mutandis,* to the recovery of interest where interest payable has not been paid or part paid or erroneously refunded.

Explanation 1.— For the purposes of this section and Section 11 AC,—

(a) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(b) "relevant date" means,—

(i) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed under this Act and the rules made thereunder;

(ii) in the case of excisable goods on which duty of excise has not been levied or paid.or has been short-levied or short-paid and the return has been filed on due date, the date on which such return has been filed;

(iii) in any other case, the date on which duty of excise is required to be paid under this Act or the rules made thereunder;

(iv) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;

(v) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund;

(c) "specified records" means records including computerised records maintained by the person chargeable with the duty in accordance with any law for the time being in force.

Explanation 2—For the removal of doubts, it is hereby declared that any non-levy, short-levy, non-payment, short-payment or erroneous refund before the date on which the Finance Bill, 2011 receives the assent of the President, shall continue to be governed by the provisions of Section 11A as it stood immediately before the date on which such assent is received.

Substitution of new section for Section 11AA and 11AB.

64. For Sections 11AA and 11AB of the Central Excise Act, the following section shall be substituted, namely:—

Interest on delayed payment of duty.

''11 AA. (1) Notwithstanding anything contained in any judgment, decree order or direction of the AppellateTribuna! or any court or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty shall, in addition to the duty, be liable to pay interest at the rate specified in sub-section *(2)*, whether such payment is made voluntarily or after determination of the amount of duty under Section, 11A.

(2) Interest, at such rate not below ten per cent and not exceeding thirty-six per cent per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid in terms of Section 11A after the due date by the person liable to pay duty and such interest shall be calculated from the date on which such duty becomes due up to the date of actual payment of the amount due.

(3) Notwithstanding anything contained in sub-section *(1)*, no interest shall be payable where—

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under Section 37B; and

(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.".

Substitution of new section for Section 11AC.

65. For Section 11AC of the Central Excise Act, the following section shall be substituted, namely:—

Penalty for short-levy or non-levy of duty in certain cases.

" 11 AC. *(1)* The amount of penalty for non-levy or short-levy or non-payment or short payment or erroneous refund shall be as follows:—

(a) where any duty of excise as not been levied or paid or short levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section *(10)* of Section 11A shall also be liable to pay a penalty equal to the duty so determined;

(b) where details of any transaction available in the specified records reveal that any duty of excise has not been levied or paid or short-levied or short-paid or erroneously refunded as referred to in sub-section *(5)* of Section11A, the person who is liable to pay duty as determined under sub-section *(10)* of Section 11 A shall also be liable to pay a penalty equal to fifty per cent of the duty so determined;

(c) where any duty as determined under sub-section *(10)* of Section 11A and the interest payable thereon under Section 11AA in respect of transactions referred to in clause *(b)* is paid within thirty days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent of the duty so determined; and

(d) where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section *(10)* of Section 11A, then the amount of penalties and interest payable shall stand modified accordingly and after taking into account the amount of duty

of excise so modified, the person who is liable to pay duty as determined under sub-section *(10)* of Section 11 A shall also be liable to pay such amount of penalty or interest so modified. .

Explanation—-For the removal of doubts, it is hereby declared that in a case where a notice has been served under sub-section *(4)* of Section 11 A and subsequent to issue of such notice, the Central Excise Officer is of the opinion that the transactions in respect of which notice was issued have been recorded in specified records and the case falls under sub-section *(5)*, penalty equal to fifty per cent of the duty shall be leviable.

(2) Where the amount as modified by the appellate authority or tribunal or court is more than the amount determined under sub-section *(10)* of Section 11A by the Central Excise Officer, the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority or tribunal or court in respect of such increased amount.".

Insertion new Section 11E.

66. After Section 11 DDA of the Central Excise Act, the following section shall be inserted, namely:—

Liability under Act to be first charge.

"11E. Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest, or any other sum payable by an assessee or any other person under this Act or the rules made thereunder shall, save as otherwise provided in Section 529A of the Companies Act, 1956, the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the assessee or the person, as the case may be.". 1 of 1956. 51 of 1993. 54 of 2002.

Amendment of Section 12.

67. In Section 12 of the Central Excise Act, after the word and figure "Section 3", the words, figure and letter "and Section 3A" shall be inserted and shall be deemed to have been inserted with effect from the 10th day of May, 2008:

Provided that the provisions of the Customs Act, 1962 relating to offences and penalties shall not apply to the matters covered by Section 3A for the period beginning on the 10th day of May, 2008 and ending immediately before the day on which the Finance Bill, 2011 receives the assent of the President. 52 of 1962.

Insertion of new Section 12F.

68. After Section 12E of the Central Excise Act, the following section shall be inserted, namely:—

Power of search and seizure.

"12F. (1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise or such other Central Excise Officer as may be notified by the Board has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure, shall, so far as may be, apply to search and seizure under this section as they apply to search and seizure under that Code.". 2 of 1974.

Insertion of new section 35R..

69. After Section 35Q of the Central Excise Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of October, 2010, namely:—

Appeal not to be filed in certain cases.

"35R. *(1)* The Central Board of Excise and Customs may, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal, application, revision or reference by the Central Excise Officer under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions, issued under sub-section *(1)*, the Central Excise Officer has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such Central Excise Officer from filing appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the Central Excise Officer pursuant to the orders or instructions or directions issued under sub-section *(1)*, no person, being a party in appeal, application, revision or reference shall contend that the Central Excise Officer has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(4) The Appellate Tribunal or court hearing such appeal, application, revision or reference shall have regard to the circumstances under which appeal, application, revision or reference was not filed by the Central Excise Officer in pursuance of the orders or instructions or directions issued under sub-section *(1).*

(5) Every order or instruction or direction issued by the Central Board of Excise and Customs on or after the 20th day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing of appeal, application, revision or reference shall be deemed to have been issued under sub-section *(1)* and the provisions of sub-sections *(2), (3)* and *(4)* shall apply accordingly.".

Amendment of Section 38.

70. In Section 38 of the Central Excise Act, in sub-section *(2),* after the words, brackets, figures and letters "sub-section *(1)* of Section 5A", the word, figure and letter ", Section 5B" shall be inserted.

Amendment of rule 3 of CENVAT Credit Rules, 2004.

71. *(1)* In the CENVAT Credit Rules, 2004, made by the Central Government in exercise of the powers conferred by Section 37 of the Central Excise Act, 1944, as published in the Official *Gazette vide* notification of the 1 of 1944.

Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 600(E), dated the 10th September, 2004, Rule 3 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column *(2)* of the Eighth Schedule, on and from the date specified in column *(3)* of that Schedule, against the rule specified in column *(1)* of that Schedule.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, on and from the 18th day of April, 2006, relating to the provisions as amended by sub-section *(1)*, shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendments made by sub-section *(1)* had been in force at all material times.

(3) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under Section 37 of the Central Excise Act, 1944, retrospectively, at all material times. 1 of 1944.

Amendment of notifications issued under Section 5A of Central Excise Act.

72. *(1)* The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 619(E), dated the 25th August, 2003, number G.S.R. 60(E), dated the 21st January 2004 and number G.S.R. 419(E), dated the 9th July, 2004 (hereinafter referred to as the said notifications), issued under sub-section *(1)* of Section 5A of the Central Excise Act, 1944, shall stand 1 of 1944. amended and shall be deemed to have been amended retrospectively, in the manner specified in column *(3)* of the Ninth Schedule, on and from the corresponding date specified in column *(4)* of that Schedule, against each of the notifications specified in column *(2)* of that Schedule.

(2) Where a manufacturer avails the benefit of exemption provided under the said notifications as amended by sub-section *(1),* he shall, within a period of six months from the date on which the Finance Bill, 2011 receives the assent of the President, provide details relating to the investments made in terms of condition (B) specified in notifications number G.S.R. 679*(E)*, dated the 25th August, 2003 and number G.S.R. 60*(E),* dated the 21st January, 2004, as subsequently amended by number G.S.R. 419*(E)*, dated the 9th July, 2004, to the Investment Appraisal Committee.

(3) The Investment Appraisal Committee shall, on receipt of details under sub-section *(2)* and on being satisfied that the investment, as specified in condition (B) referred to in sub-section *(2),* has been made, issue the certificate in accordance with condition *(E)* specified in the said notifications as soon as possible but not later than the 31st day of December, 2012.

(4) Any amount lying or remaining unutilised in the, escrow account [referred to in notification number G.S.R.419(E), dated the 9th July, 2004] on or after the 31st day of December, 2012 shall stand forfeited and be appropriated to the account of the Central Govemment.

(5) Recovery of any duty along with applicable interest which has not been paid but was liable to be paid as if the benefits under the said notifications had not been made available on account of non-issue of certificate by the Investment Appraisal Committee or on any other account, shall be made within a period of one year from the 31st day of December, 2012 and the provisions of the Central Excise Act, 1944 shall apply for such recovery. 1 of 1944

(6) No suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or any other authority for any action taken or anything done or omitted to be done, in respect of the said notifications and no enforcement shall be made by any court of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made in the said notifications had been in force at all material times.

(7) For the purposes of sub-section *(1),* the Central Government shall have and shall be deemed to have the power to amend the said notifications with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of Section 5A of the Central Excise Act, 1944, retrospectively, at all material times. 1 of 1944.

Explanation—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the said notifications had not been amended retrospectively.

Central Excise Tariff

Amendment of First Schedule and Third Schedule.

73. In the Central Excise Tariff Act, 1985 (hereinafter to as the Central Excise Tariff Act), 1 of 1944.—

(a) the First Schedule shall,—

(i) be amended in the manner specified in the Tenth Schedule;

(ii) also be amended in the manner specified in the Eleventh Schedule with effect from the 1st day of January, 2012;

(b) the Third Schedule shall be amended in the manner specified in the Twelfth Schedule.

CHAPTER V

SERVICE TAX

Amendment of Act 32 of 1994.

74. In the Finance Act, 1994,—

(A) in Section 65, save as otherwise provided, with effect from such date as the Central Government may, by notification in the Official Gazzette, appoint,—

(1) clause *(9)* shall be omitted;

(2) for clause *(25a)*, the following clauses shall be substituted, namely:—

'(25a) ''clinical establishment'' means—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution, by whatever name called, owned, established, administered or managed by any person or body of persons, whether incorporated or not, having in its establishment the facility of central air-conditioning either in whole or in part of its permises and having more than twenty-five beds for in-partient treatment at any time during the financial year, offering services for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine; or

(ii) an entrity owned, established, administered or managed by any person or body of persons, whether incorporated or not, either as an independent entity or as a part of any clinical estiblishment referred to in sub-clause *(i),* which carries out diagnosis of diseases through pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment,

but does not include an establishment, owned or controlled by—

(a) the Government; or

(b) a local authority;

(25aa) "club or association" means any person or body of persons providing services, facilities or advantages, primarily to its members, for a subscription or any other amount, but does not include—

(i) anybody established or constituted by or under any law for the time being in force; or

(ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or

(iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or

(iv) any person or body of persons associated with press or media;';

(3) in clause (27), the portion beginning with the words "but does not include" and ending with the words " time being in force" shall be omitted;

(4) in clause (104c), for the words "operational assistance for marketing", the words "operational or administrative assistance in any manner" shall be substituted;

(5) in clause *(105)*—

(a) for sub-clause (zo), the following sub-clause shall be substituted, namely:—

"(zo) to any person, by any other person, in relation to any service for repair, reconditioning, restoration or decoration or any other similar services, of any motor vehicle other than three wheeler scooter, auto-rickshaw and motor vehicle meant for goods carriage;";

(b) for sub-clause (zx), the following sub-clause shall be substituted, namely:—

"(zx) to a policy holder or any person, by an insurer, including re-insurer carrying on life insurance business;";

(c) in sub-clause *(zzze)*, after the words "to its members,", the words "or any other person" shall be inserted;

(d) for sub-clause *(zzzzm)*, the following sub-clause shall be substituted, namely:—

'(zzzzm) (i) to any person, by a business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner;

(ii) to any business entity, by any person, in relation to representational services before any court, tribunal or authority;

(iii) to any business entity, by an arbitral tribunal, in respect of arbitration.

Explanation—For the purposes of this item, the expressions "arbitration" and "arbitral tribunal" shall have the meanings respectively assigned to them in the Arbitration and Conciliation Act, 1996;'; 1 of 1944.

(e) for sub-clause *(zzzzo)*, the following sub-clause shall be substituted, namely:—

"(zzzzo) to any person,—

(i) by a clinical establishment; or

(ii) by a doctor, not being an employee of a clinical establishment, who provides services from such premises for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine;";

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

"(zzzzv) to any person, by a restaurant; by whatever name called, having the facility of air-conditioning in any part of the establishment, at any time during the financial year, which has licence to serve alcoholic beverages, in relation to serving of food or beverage, including alcoholic beverages or both, in its premises;

(zzzzw) to any person by a hotel, inn, guest house, club or campsite, by whatever name called, for providing of accommodation for a continuous period of less than three months;";

(B) in Section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the word, brackets and letters "and *(zzzzu)* the brackets, letters and word ", *(zzzzu), (zzzzv)* and *(zzzzw)*" shall be substituted;

(C) in Section 70, in sub-section *(1),* for the words "two thousand rupees", the words " twenty thousand rupees" shall be substituted;

(D) in Section 73,—

(i) sub-section (1A) shall be omitted;

(ii) the provisos to sub-section (2) shall be omitted;

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

'(4A) Notwithstanding anything contained in sub-sections *(3)* and *(4)*, where during the course of any audit, investigation or verification, it is found that any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, but the true and complete details of transactions are available in the specified records, the person chargeable to service tax or to whom erroneous refund has been made, may pay the service tax in full or in part, as he may accept to be the amount of tax chargeable or erroneously refunded along with interest payable there on under Section 75 and penalty equal to one per cent of such tax, for each month, for the period during which the default continues, up to a maximum of twenty-five per cent of the tax amount, before service of notice on him and inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under sub-section *(1)* in respect of the amount so paid and proceedings in respect of the said amount of service tax shall be deemed to have been concluded:

Provided that the Central Excise Officer may determind the amount of service tax, if any, due from such person, which in his opinion remains to be paid by such person and shall proceed to recover such amount in the manner specified in sub-section *(1).*

Explanation—For the purposes of this sub-section and Section 78, ''specified records'' means records including computerised data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.'';

(E) in Section 73B, after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that in the case of a service provider, whose value of taxable services povided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice issued under sub-section *(3)* of Section 73A or during the last preceding financial year, as the case may be, such rate of interest shall be reduced by three per cent. per annum";

(F) in Section 75, the following proviso shall be inserted, namely:—

"Provided that in the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice or during the last preceding financial year, as the case may be, such rate of interest, shall be reduced by three per cent. per annum";

(G) in Section 76,—

(i) for the words "two hundred rupees", the words "one hundred rupees" shall be substituted;

(ii) for the words " two per cent.", the words "one per cent." shall be substituted;

(iii) in the proviso, after the words "shall not exceed", the words "fifty per cent. of " shall be inserted;

(iv) for the Illustration, the following Illustration shall be substituted, namely:—

"Illustration

X, an assessee, fails to pay service tax of ten lakh rupees payable by the 5th March. X pays the amount on the 15th March. The default has continued for ten days. The penalty payable by X is computed as follows:—

1% of the amount of default for 10 days

$$\frac{1}{100} \times 10,00,000 \times \frac{10}{31} = \text{Rs. } 3,225.80$$

Penalty calculated @ Rs 100 per day for 10 days=Rs. 1,000

Penalty liable to be paid is Rs. 3, 226.00.";

(H) in Section 77, for the words "five thousand rupees" wherever they occur, the words "ten thousand rupees" shall be substituted;

(I) for Section 78, the following section shall be substituted, namely:—

Penalty for suppressing, etc., of value of taxable services.

"78. *(1)* Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of—

(a) fraud; or

(b) collusion; or

(c) wilful mis-statement; or

(d) suppression of facts; or

(e) contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person, liable to pay such service tax or erroneous refund, as determined under sub-section *(2)* of Section 73, shall also be liable to pay a penalty, in addition to such service tax and interest thereon, if any, payable by him, which shall be equal to the amount of service tax so not levied or paid or short-levied or short-paid or erroneously refunded:

Provided that where true and complete details of the transactions are available in the specified records, penalty shall be reduced to fifty per cent. of the service tax so not levied or paid or short-levied or short-paid or erroneously refunded:

Provided further that where such service tax and the interest payable thereon is paid within thirty days from the date of communication of order of the Central Excise Officer determining such service tax, the amount of penalty liable to be paid by such person under the first proviso shall be twenty-five per cent. of such service tax:

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that in case of a service provider whose value of taxable services does not exceed sixty lakh rupees during any of the years covered by the notice or during the last preceding financial year, the period of thirty days shall be extended to ninety days.

(2) Where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the Court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account:

Provided that in case where the service tax to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the second proviso to sub-section *(1)* shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days or ninety days, as the case may be, of communication of the order by which such increase in service tax takes effect:

Provided further that if the penalty is payable under this section, the provisions of Section 76 shall not apply.

Explanation.— For the removal of doubts, it is hereby declared that any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the second proviso to sub-section *(1)* or the first proviso to sub-section *(2)* shall be adjusted against the total amount due from such person.";

(J) in Section 80, for the word and figures "Section 78", the words, brackets and figures "first proviso to sub-section *(1)* of Section 78" shall be substituted;

(K) in Section 82, in sub-section *(1),*—

(i) for the words "Commissioner of Central Excise", the words "Joint Commissioner of Central Excise" shall be substituted;

(ii) for the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise", the words "Superintendent of Central Excise" shall be substituted;

(L) in Section 83,—

(i) for the figures and letters "9C, 9D, 11B,11BB, 11C, 12,12A, 12B, 12C, 12D, 12E, 14,14AA, 15, 33A, 35F", the figures and letters "9A, 9AA, 9B, 9C, 9D, 9E, 11B, 11BB, 11C, 12,12A, 12B, 12C, 12D, 12E, 14,14AA, 15, 33A, 34A, 35F" shall be substituted;

(ii) after the figures and letter "35Q,", the figures and letter "35R," shall be inserted and shall be deemed to have been inserted with effect from the 20th day of October, 2010;

(M) after Section 87, the following sections shall be inserted, namely:—

Liability under Act to be first charge.

"88. Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest or any other sum payable by an assessee or any other person under this Chapter, shall, save as otherwise provided in Section 529A of the Companies Act, 1956 and the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the or the assessee or the person, as the may be. 1 of 1956. 51 of 1993. 54 of 2002.

Offences and penalties.

89. (1) Whoever commits any of the following offences, namely:—

(a) provides any taxable service chargeable to service tax under sub-section *(1)* of Section 68 or receives any taxable service chargeable to tax under sub-section *(2)* of said section, without an invoice issued in accordance with the provisions of this Chapter or the rules made thereunder; or

(b) avails and utilises credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or

(c) maintains false books of account or fails to supply any information which he is required to supply under this Chapter or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(d) collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due,

shall be punishable,—

(i) in the case of an offence where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to three years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded, in the judgment of the court, such imprisonment shall not be for a term of less than six months;

(ii) in any other case, with imprisonment for a term, which may extend to one year.

(2) If any person convicted of an offence under this section is again convicted of an offence under this section, then he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to three years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months.

(3) For the purposes of sub-sections *(1)* and *(2),* the following shall not be considered as special and adequate reasons for awarding a sentence of imprisonment for a term of less than six months, namely:—

(i) the fact that the accused has been convicted for the first time for an offence under this Chapter;

(ii) the fact that in any proceeding under this Act, other than prosecution, the accused has been ordered to pay a penalty or any other action has been taken against him for the same act which constitutes the offence;

(iii) the fact that the accused was not the principal offender and was acting merely as a secondary party in the commission of the offence;

(iv) the age of the accused.

(4) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Chief Commissioner of Central Excise.";

(N) in Section 93A, in the proviso, after the words "such rebate shall", the words ", except under such circumstances or conditions as may be prescribed," shall be inserted;

(O) in Section 95, after sub-section *(1G)*, the following sub-section shall be inserted, namely:—

"*(1H)* If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2011, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2011 receives the assent of the President.";

(P) after Section 96-1, the following section shall be inserted, namely:—

Special exemption from service tax in certain cases.

"96J. (1) Notwithstanding anything contained in Section 66, no service tax shall be levied or collected in respect of membership fee collected by a club or association formed for representing industry or commerce, during the period on and from the 16th day of June, 2005 to the 31st day of March, 2008 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected if sub-section *(1)* had been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance Bill, 2011 receives the assent of the President.".

Validation of exemption given to a person by tour operator having contract carriage permit for inter-State or intra-State transportation of passengers with retrospective effect.

75. *(1)* The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 492 *(E),* dated the 7th July, 2009, issued in exercise of the powers conferred by sub-section *(1)* of Section 93 of the Finance Act, 1994, granting exemption from the whole of service tax leviable under-section 66 of that Act to any person by a tour operator having a contract carriage permit for inter-State or intra-State transportation of passengers, excluding tourism, conducted tour, charter or hire service, shall be deemed to have, and deemed always to have, for all purposes, validly come into force on and from the 1st day of April, 2000, at all material times. 32 of 1994.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected as if the notification referred to in sub-section *(1)* had been in force at all material times.

(3) Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance Bill, 2011 receives the assent of the President. 32 of 1994.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of Section 11B of the Central Excise Act, 1944, shall be applicable in case of refunds under this section. 1 of 1944.

CHAPTER VI

MISCELLANEOUS

Amendment of Act 16 of 1955.

76. In the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, in *Explanation* III, for the words, figures and brackets ''Standards of Weights and Measures Act, 1976 (60 of 1976)'', the words and figures ''Legal Metrology Act, 2009'' shall be substituted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint. 1 of 2010.

Amendment of Section 15 of Act 74 of 1956.

77. In Section 15 of the Central Sales Tax Act, 1956, in clause *(a)*, for the words ''four per cent.'', the words ''five per cent.'' shall be substituted.

Amendment of First Schedule to Act 58 of 1957.

78. The First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 shall be amended in the manner specified in the Thirteenth Schedule.

Amendment of Second Schedule to Act 28 of 2005.

79. In the Second Schedule to the Special Economic Zones Act, 2005,—

(a) in paragraph *(a),* clause *(C)* shall be omitted with effect from the 1st day of June, 2011;

(b) paragraph *(h)* shall be omitted with effect from the 1st day of April, 2012;

(c) paragraph *(i)* shall be omitted with effect from the 1st day of June, 2011.

THE FIRST SCHEDULE

(See Section 2)

PART I

INCOME TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items *(II)* and *(III)* of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of Section 2 of the Income tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of Income Tax

(1) where the total income does not exceed Rs. 1,60,000	Nil;
(2) where the total income exceeds Rs. 1,60,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,60,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000	Rs. 34,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 8,00,000	Rs. 94,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of Income Tax

(1) where the total income does not exceed Rs. 1,90,000	Nil;
(2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,90,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000	Rs. 31,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 8,00,000	Rs. 91,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of Income Tax

(1) where the total income does not exceed Rs. 2,40,000	Nil;
(2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 2,40,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000	Rs. 26,000 plus 20 per cent. of the amount by the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 8,00,000	Rs. 86,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

Paragraph B

In the case of every Co-operative Society,—

Rates of Income Tax

(1) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of Income Tax

On the whole of the total income	30 per cent.

Paragraph D

In the case of every local authority,—

Rate of Income Tax

On the whole of the total income	30 per cent.

Paragraph E

In the case of a company,—

Rates of Income Tax

I. In the case of a domestic company	30 per cent. of the total income;
II. In the case of a company other than a domestic company—	
(i) on so much of the total income as consists of,—	
(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31 st day of March, 1961 but before the 1st day of April, 1976; or	
(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	
and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(ii) on the balance, if any, of the total income	40 per cent.

Surcharge on Income Tax

The amount of income tax computed in accordance with the preceding provisions of this Paragraph, or in Section 111A or Section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of seven and one-half per cent. of such income tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate o f two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income tax and surcharge on such income shall not exceed the total amount payable as income tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of Sections 193,194,194A, 194B, 194BB, 194D and 195 of the Income Tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of Income Tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	
(C) any security of the Central or State Government	
(vi) on any other income	10 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long term capital gains referred to in Section 115E	10 per cent.;
(C) on income by way of short term capital gains referred to in Section 111A	15 per cent.;
(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of Section 10]	20 per cent.;
(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in Section 194LB)	20 per cent.;
(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in	

respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of Section 115A of the Income tax Act, to the India conern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of Section 115A of the Income Tax Act, to a person resident in India—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005. — 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(G) on income by way of royalty [not being royalty of the nature referred to in sub-item *(b)(i)(F)*] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1 st day of June, 2005. — 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1 st day of June, 1997 but before the 1 st day of June, 2005 — 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 — 10 per cent.;

(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(J) on income by way of winnings from horse races — 30 per cent.;

(K) on the whole of the other income — 30 per cent.;

(ii) in the case of any other person—

(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in Section 194LB). — 20 per cent.;

	Rate of income-tax
(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section *(1A)* of Section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section *(1A)* of Section 115A of the Income-tax Act, to a person resident in India—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(C) on income by way of royalty [not being royalty of the nature referred to in sub-item *(b)(ii)(B)*] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 percent.;
(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(F) on income by way of winnings from horse races	30 per cent.;
(G) on income by way of short-term capital gains referred to in Section 111 A	15 percent.;
(H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses *(33), (36)* and *(38)* of Section 10]	20 per cent.;
(I) on the whole of the other income	30 per cent.

	Rate of income-tax
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on any other income	10 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(ii) on income by way of winnings from horse races	30 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB).	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section *(1 A)* of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section *(1A)* of Section 115A of the Income-tax Act, to a person resident. in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(C) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item *(b)(iv)*] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;

	Rate of income-tax
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vii) on income by way of short-term capital gains referred to in Section 111A	15 per cent.;
(viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses *(33), (36)* and *(38)* of Section 10]	20 per cent.;
(ix) on any other income	40 per cent.

Explanation.—For the purpose of item *1(b)(i)* of this Part, "investment income" and "non-resident Indian" shall have the meanings respectively assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of item *2(b)* of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section *(4)* of Section 172 of the Income-tax Act or sub-section *(2)* of Section 174or Section 174A or Section 175 or sub-section *(2)* of Section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under Section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under Section 115 JB or Section 115JC or sub-section *(1A)* of Section 161 or Section 164 or Section 164A or Section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under Section 115A or Section 115AB or Section 115AC

or Section 115ACA or Section 115 AD or Section 115B or Section 115BB or Section 115BBA or Section 115BBC or Section 115BBD or Section 115E or Section 115JB or Section 115JC] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items *(II), (III)* and *(IV)* of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause *(vii)* of clause *(31)* of Section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,80,000	Nil;
(2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 5,00,000.	10 per cent. of the amount by which the total income exceeds Rs. 1, 80,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000.	Rs. 32,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 8,00,000	Rs. 92,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

(II) In the case of every individual, being a woman resident in India, and below the age of sixty years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 1,90,000	Nil;
(2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 1,90,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000	Rs. 31,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 8,00,000	Rs. 91,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

(III) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

(1) where the total income does not exceed Rs. 2,50,000	Nil;
(2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 2,50,000;
(3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000	Rs. 25,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 8,00,000	Rs. 85,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

(IV) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 5,00,000	Nil;
(2)	where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(3)	where the total income exceeds Rs. 8,00,000	Rs. 60,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 8,00,000.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1)	where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2)	where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3)	where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 30 per cent. of the total income.

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in Section 111 A or Section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of five per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART IV

[See Section 2(13)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause *(a)* of clause *(1A)* of Section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of Sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section *(2)* of Section 58 shall apply subject to the modification that the reference to Section 40A therein shall be construed as not including a reference to sub-sections *(3)* and *(4)* of Section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause *(b)* or sub-clause *(c)* of clause *(1A)* of Section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause *(c)*] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of Sections 30,31, 32,36,37,38,40,40A [other than sub-sections *(3)* and *(4)* thereof], 41,43,43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause *(c)* of clause *(1A)* of Section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause *(c)* shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of Sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with Rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with Rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with Rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accerdance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2011, any agricultural income and the net result of the computation of the agricultural income of the assessee for anyone or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the. 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010, is a loss, then, for the purposes of sub-section *(2)* of Section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2011.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2012, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011, is a loss, then, for the purposes of sub-section *(10)* of Section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2012.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule *(1)* or sub-rule *(2)* shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule *(1)* or, as the case may be, sub-rule *(2).*

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) or of the First Schedule to the Finance Act, 2010 (14 of 2010) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of Section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[*See* Section 55 (1)]

Sl. No.	Notification number and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1	G.S.R. 605*(E),* dated the 10th September, 2004 [92/2004-Customs, dated the 10th September, 2004].	In the said notification, condition *(v)* shall be omitted	1st April, 2008.
2	G.S.R. 282*(E),* dated the 9th May, 2005 [41/2005-Customs, dated the 9th	In the said notification, condition *(5)* shall be omitted.	1st April, 2008.

Sl. No.	Notification number and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
	May, 2005].		
3	G.S.R. 528*(E)*, dated the 1st September, 2006 [90/2006-Customs, dated the 1st September, 2006].	In the said notification, condition *(9)* shall be omitted.	1st April, 2008.
4	G.S.R. 529*(E)*, dated the 1st September, 2006 [91/ 2006-Customs, dated the 1st September, 2006].	In the said notification, condition *(9)* shall be omitted.	1st April, 2008.
5	G.S.R. 349*(E),* dated the 9th May, 2008 [64/ 2008-Customs, dated the 9th May, 2008].	In the said notification, in the *Explanation,* in clause *(2),* in sub-clause (i), the fifth proviso shall be omitted.	9th May, 2008.
6	G.S.R. 878*(E),* dated the 24th December, 2008 [136/2008-Customs, dated the 24th December, 2008].	In the said notification, in the *Explanation,* in clause *(3),* in sub-clause *(i)* the fifth proviso shall be omitted.	24th December, 2008.

THE THIRD SCHEDULE

(*See* Section 56)

Description of item and its exemption	Date of effect
(1)	(2)
Fresh garlic falling under tariff item 0703 20 00 in the First Schedule to the Customs Tariff Act.1975 (51 of 1975) imported by the National Consumer Co-operative Federation and the Madhya Pradesh State Co-operative Marketing Federation under an import licence issued by the Central Government and cleared after the 15th day of January, 2003 from so much of the duty of Customs as is in excess of thirty per cent. *ad valorem.*	15th January, 2003.

THE FOURTH SCHEDULE

[*See* Section *60(a)(i)*]

In the First Schedule to the Customs Tariff Act, in Chapter 98,—

(a) in heading 9804, in column *(2),* for the portion beginning with the words “and exempted from” and ending with the words and figures “under heading 9803” shall be omitted;

(b) in tariff items 980410 00 and 9804 90 00, for the entries in column (4) occurring against each of them, the entry “35%” shall be substituted.