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TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION OF 2004

Part I.—Central Acts Amended, Repealed on otherwise Affected

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 2004 Act by which affected
1	2	3	4	5
1873	5	Government Savings Bank Act, 1873	S. 3 amended	23, s. 116.
1885	13	Indian Telegraph Act, 1885	Ss: 3,4 and 7 amended (w.e.f. 1-4-2002)	8, ss. 2,3 and 4.
			Part II-A inserted (w.e.f. 1-4-2002)	Ibid., s. 5.
1899	2	Indian Stamp Act, 1899	Ss. 2, 9 and Schedule I amended	23, s. 117.
1944	1	Central Excise Act, 1944	Ss. 9A, 11,35,35B, 35C and 37 Third Schedule and CENVAT Credit Rules, 2002 amended	23, ss. 79,80,82,83,84,85,86 and 88
			S. 33A inserted	Ibid., s. 81.
1946	26	Special Tribunals (Supplementary Provisions) Act, 1946.	Repealed	28, s. 2.
1946	31	Foreigners Act, 1946	S. 14 Substituted	16. s. 2.
1949	10	Banking Regulation Act, 1949	s. 56 amended (w.e.f. 24-9-2004)	24, s. 2.
1950	43	Representation of the People Act, 1950	S. 13AA amended (w.e.f. 29-10-2003)	2, s. 2.
1951	43	Representation of the People Act, 1951	Ss. 26 and 78 amended (w.e.f. 29-10-2003)	2, s. 3.
1954	30	Salary, Allowances and Pension of Members of Parliament Act, 1954	Ss. 2,4,5, 8A and 9 amended.	9, ss. 2,3,4,6 and 9.
			S. 8 AA Substituted	Ibid., s. 7.
			Ss. 5 A and 8AB inserted	Ibid., ss. 5 and 8.
1955	57	Citizenship Act, 1955	Ss. 2,4,5,6,8,9,14,17,18 and Third Schedule amended	6, ss. 2,4,5,6,8,9,11,14,15, and 18
			S. 3, Second Schedule Substituted (w.e.f.----------)	Ibid., ss. 3 and 17.
			Heading and New Sections 7A, 7B, 7C, 7D, 14A, 15A and Fourth Schedule inserted (w.e.f.----------)	Ibid., ss. 7,12,13 and 19
			Ss. 11,12 and First Schedule Omitted (w.e.f.----------)	Ibid., ss. 10 and 16.
1956	1	Companies Act, 1956	Ss. 4A and 424A amended (w.e.f. 11-11-2004)	30, ss.. 21 and 22.
1956	74	Central Sales Tax Act, 1956	S. 8 Chapter VI, amended	23, ss. 118 and 119.
1957	27	Wealth-tax Act, 1957	Ss. 35 HA amended (w.e.f. 1-1-2002)	23, s. 65.
1961	43	Income-tax Act, 1961	Ss. 2,7,10,12AA, 17,32,33AC, 35-AC, 40,48,56,71,80DD,80-1A, 80-IB,80-U,87,88,90,94,115-AD,115-JB,115-R,119,139, 139A,153,153B, 194C,197,198, 199,200,202,203,204,205,206, 206-C,206-CA,245-RR,246-A, 253,272-A,272-B,272-BBB,273-B,278-B and 279 Thirteenth Schedule amended (w.e.f.1-4-2004).	23, ss. 3 to 14, 16, to 21,24,25,26,27,28,29,31,32,33, 35, 36,37,39,40,41,42,43,44,47 48, 49, 50 to 54, 56, 57, 58, 59, 61,62 and 64.
			Ss.80CCD, 88D, 88E, 111A, X11-G,142A,194-LA,203AA,271F and 277A, inserted (w.e.f.----------1-1-2004)	*ibid.*,ss.15,22, 23, 26, 30, 34, 38, 46, 55 and 60.
			Ss. 203A,285BA,Substituted (w.e.f.----------1-4-2004)	*ibid.*, ss.45 and 63.

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 2004 Act by which affected
1	2	3	4	5
1961	47	Deposit Insurance and Credit Guarantee Corporation Act, 1961	S.2 amended (w.e.f.24-9-2004)	24. s.3.
1962	52	Customs Act, 1962	Ss. 41. 128, 129A, 129B, 137, 142 and 156 amended	23, ss. 66, 68, 69, 70, 71, 72 and 73.
			S. 122A, inserted	*ibid.* 67.
1967	37	Unlawful Activities (Prevention) Act, 1967	Long title, chapter I, s. 5 and schedule amended (w.e.f. 21.9.2004)	29, ss. 2, 4, 5 and 35
			The Word "Code", s. 10, New Chapters and Schedule for Chapter IV Substituted (w.e.f. 21.9.2004)	*Ibid.*, 3, 6, and 7.
1975	51	Customs Tariff Act, 1975	Ss. 3, 9A and 9C and First Schedule amendment	23, ss. 75 76, 77 and 78.
1986	1	Sick Industrial Companies (Special Provisions) Act, 1985	Repealed (w.e.f.)	1, s. 3.
1986	5	Central Excise Tariff Act, 1986	First Schedule amended	23, s. 89
1993	51	Recovery of Debts Due to Banks and Financial Institutions Act, 1993	Ss. 2 and 19 amended (w.e.f. 11-11-2004)	30, ss. 19 and 20
1994	32	Finance Act, 1994	Ss, 65, 66, 67, 71 to 75, 75A, 76, 77, 78, 79, 80, 81, 85, 86, 94 and 95 amended	23, s. 90
2000	29	Uttar Pradesh Reorganisation Act, 2000	S. 18 Substituted	7, s. 2.
2001	29	Indian Council of World Affairs Act, 2001	Ss. 7 and 15 amended	5, ss. 2 and 3.
			Ss. 23A and 28A inserted	*Ibid.*, ss. 4 and 5.
2002	15	Prevention of Terrorism Act, 2002	S. 60 amended (w.e.f. 27-10-2003)	4, s. 2.
2002	33	Delimitation Act, 2002	Ss. 3, 4, 8, and 9 amended (w.e.f. 31-10-2003)	3. ss. 2, 3, 4 and 5.
2002	15	Prevention of Terrorism Act, 2002	Repealed (w.e.f. 21-09-2004)	26, s. 2.
2002	54	Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002	Ss. 2, 3, 4, 7, 13, 15, 17, 18, 25, 28 31 and 38 amended (w.e.f. 11-11-2004)	30, ss. 2,3, 4, 6, 8, 9, 10, 12, 15, 16, 17 and 18.
			S. 19 substituted (w.e.f. 11-11-2004)	*Ibid.*, s. 14.
			Ss. 5A, 12A, 17A, 18A and 18B inserted (w.e.f. 11-11-2004)	*Ibid.*, ss. 5, 7, 11 and 13.
2003	32	Finance Act, 2003	S. 2 and First Schedule amended (w.e.f. 1-4-2004)	13, s. 2.
			S. 169 amendment	*Ibid.*, s. 3.
2003	39	Fiscal Responsibility and Budget Management Act, 2003	S. 4 amended	23, s. 20.
2004	17	British Statutes (Repeal) Act, 2004	Repealed	17, s. 3.
2004	13	Finance Act, 2004	S. 2 Repealed	23, s. 121.
2004	25	Customs and Central Excise Laws (Repeal) Act, 2004	Certain enactments specified in the Schedule repealed	25, s. 2.

Part II.—Central Ordinances Repealed

Year of Ordinance	No. of Ordinance	Short title of Ordinance	No. and section of 2004 Act by which repealed
1	2	3	4
2003	4	Prevention of Terrorism (Amendment) Ordinance, 2003	4, s. 3.
2003	5	Representation of the People (Second Amendment) Ordinance, 2003.	2, s. 4.
2003	6	Delimitation (Amendment) Ordinance, 2003.	3, s. 6.
2003	7	Indian Telegraph (Amendment) Ordinance, 2003.	8, s. 6.
2004	1	Prevention of Terrorism (Repeal) Ordinance, 2004.	26, s. 3.
2004	2	Unlawful Activities (Prevention) Amendment Ordinance, 2004.	29, s. 8
2004	3	Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004.	24, s. 4.
2004	5	Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004.	30, s. 23.

Part III.—Constitution of India Amended

How affected	No. and Section of 2004 Act by which affected
Articles 75, 164 and Tenth Schedule amended	Constitution (Ninety-first Amendment) Act 2003, ss. 2, 3 and 5.
Article 361-B inserted.	*Ibid.*, s. 4.
Eighth Schedule amended	Constitution (Ninety-second Amendment) Act, 2003.

THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003

No. 1 of 2004

[1*st January*, 2004.]

An Act to repeal the Sick Industrial Companies (Special Provisions) Act, 1985.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Sick Industrial Companies (Special Provisions) Repeal Act, 2003. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— Definitions.

(*a*) "Appellate Authority" means the Appellate Authority for Industrial and Financial R econstruction constituted under section 5 of the Sick Industrial Companies (Special Provisions) Act, 1985; 1986.

(*b*) "Board" means the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985; 986.

(*c*) words and expressions used herein and not defined but defined in the Sick Industrial Companies (Special Provisions) Act, 1985, shall have the meanings respectively assigned to them in that Act. 986.

Repeal of Act 1 of 1986 and dissolution of Appellate Authority and Board.

3. The Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as the repealed enactment) is hereby repealed and the Appellate Authority and the Board stand dissolved.

Consequential provisions.

4. On the dissolution of the Appellate Authority and the Board,—

(a) (i) the persons appointed as Chairman and Member of the Appellate Authority or the Board; and

(ii) every other person appointed by the Central Government, Appellate Authority or the Board,

and holding office as such immediately before the commencement of this Act, shall vacate his office and no such Chairman, Member or other person shall be entitled to claim any compensation for premature termination of the term of his office or of any contract of service:

Provided that every officer or employee who has been, immediately before the dissolution of the Appellate Authority or the Board, appointed on deputation basis to the Appellate Authority or the Board, shall stand reverted to his parent cadre, Ministry or Department, as the case may be:

Provided further that every officer or employee who has been, immediately before the dissolution of the Appellate Authority or the Board, employed on regular basis by the Appellate Authority or the Board, shall become, on and from the date of such dissolution, the officer and employee, respectively, of the Central Government with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to such Appellate Authority or the Board had not been transferred to, and vested in, the Central Government and shall continue to do so unless and until his employment in the Central Government is duly terminated or until his remuneration, terms and conditions of employment are duly altered by that Government:

Provided also that notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee, employed in the Appellate Authority or the Board, to the Central Government, shall not entitle such officer or employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority: 14 of 194

Provided also that where the Appellate Authority or the Board has established a provident fund, superannuation, welfare or other fund for the benefit of the officers and employees employed in the Appellate Authority or the Board, the monies relatable to the officers and employees whose services have been transferred by or under this Act to the Central Government shall, out of the monies standing, on the dissolution of the Appellate Authority or the Board, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the Central Government and such monies which stand so transferred shall be dealt with by that Government in such manner as may be prescribed;

(b) any appeal preferred to the Appellate Authority or any reference made to the Board or any inquiry pending before the Board or any other authority or any proceeding of whatever nature pending before the Appellate Authority or the Board immediately before the commencement of this Act shall stand abated:

Provided that a company:—

(*i*) in respect of which such appeal or reference or inquiry stand abated under this clause may make a reference under PART VIA of the Companies Act, 1956 within one hundred and eighty days from the commencement of this Act in accordance with the provisions of the Companies Act, 1956; 1 of 1956.

(*ii*) which had become a sick industrial company as defined in clause (46AA) of section 2 of the Companies Act, 1956, before the commencement of the Companies (Second Amendment) Act, 2002 may make a reference under PART VIA of the Companies Act, 1956 within one hundred and eighty days from the commencement of the Companies (Second Amendment) Act, 2002 or within sixty days of final adoption of accounts after such commencement, whichever is earlier, 1 of 1956. 11 of 2003.

and reference so made shall be dealt with in accordance with the provisions of the Companies Act, 1956: 1 of 1956.

Provided further that no fee shall be payable for making such reference under PART VIA of the Companies Act, 1956 by a company whose appeal or reference or inquiry stand abated under this clause: 1 of 1956.

Provided also that any scheme sanctioned under sub-section (*4*) or any scheme under implementation under sub-section (*12*) of section 18 of the repealed enactment shall be deemed to be a scheme sanctioned or under implementation under section 424D of the Companies Act, 1956 and shall be dealt with in accordance with the provisions contained in PART VIA of that Act; 1 of 1956.

(*c*) the balance of all monies (including any fee) received by, or advanced to the Appellate Authority or the Board, as the case may be, and not spent by it before the commencement of this Act shall, on the commencement of this Act, stand transferred to, and vest in, the Central Government and shall be utilised for the purposes of clauses (*e*) and (*f*);

(*d*) all property of whatever kind owned by, or vested in, the Appellate Authority or the Board, as the case may be, and not spent by it before the commencement of this Act shall, on the commencement of this Act, stand transferred to, and shall vest in the Central Government;

(*e*) all liabilities and obligations of whatever kind incurred by the Appellate Authority or the Board and subsisting immediately before the commencement of this Act shall, on and from the commencement of this Act, be deemed to be the liabilities or obligations, as the case may be, of the Central Government; and any proceeding or cause of action, pending or existing immediately before the commencement of this Act by or against the Appellate Authority or the Board in relation to such liability or obligation may, as from the commencement of this Act, be continued or enforced by or against the Central Government;

(*f*) all monies vested in the Central Government under clause (*c*) shall, after deducting the amount incurred for discharging the liabilities and obligations referred to in that clause, be refunded by the Central Government to the person to whom such amount is due.

5. (*1*) The repeal by this Act of the repealed enactment shall not— **Saving.**

(*a*) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

(*b*) affect the previous operation of the repealed enactment or anything duly done or suffered thereunder;

(*c*) affect any right, privilege, obligation or liability acquired, accrued, or incurred under the repealed enactment;

(*d*) affect any order made by the Board for sanction of the schemes;

(*e*) affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

(*f*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed enactment, affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such privilege, forfeiture or punishment may be imposed as if this Act had not been passed;

(*g*) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in, or from, the repealed enactment;

(*h*) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(*2*) Save as otherwise provided in section 4 and in sub-section (*1*) of this section, the mention of particular matters in the said section and sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal. 10 of 1897.

Power to make rules.

6. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the monies standing to the credit of provident fund, superannuation, welfare or other fund of officers and employees on their transfer to the Central Government, shall be dealt with by that Government under the fourth proviso to clause (*a*) of section 4;

(*b*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) ACT, 2003

No. 2 OF 2004

[1*st January*, 2004.]

An Act further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Representation of the People (Second Amendment) Act, 2003. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 29th day of October, 2003.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

2. In section 13AA of the Representation of the People Act, 1950, in sub-section *(1)*, the words "other than a Union territory," shall be omitted. Amendment of section 13AA of Act 43 of 1950.

CHAPTER III

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

3. In the Representation of the People Act, 1951,— Amendment of sections 26 and 78 of Act 43 of 1951.

(a) in section 26, sub-section *(5)* shall be omitted;

(b) in section 78, sub-section (*2*) shall be omitted.

Repeal and saving.

4. (*1*) The Representation of the People (Amendment) Ordinance, 2003 is hereby repealed. Ord. 5 of 2003.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Representation of the People Act, 1950 and the Representation of the People Act, 1951 as amended by the said Ordinance, shall be deemed to have been done or taken under the said Acts, as amended by this Act. 43 of 1950. 43 of 1951.

THE DELIMITATION (AMENDMENT) ACT, 2003

No. 3 OF 2004

[1*st January*, 2004.]

An Act to amend the Delimitation Act, 2002.

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

1. (*1*) This Act may be called the Delimitation (Amendment) Act, 2003. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 31st day of October, 2003.

002. **2.** In section 3 of the Delimitation Act, 2002 (hereinafter referred to as the principal Act), for the *Explanation*, the following *Explanation* shall be substituted, namely:— Amendment of section 3.

"*Explanation*.—For the purposes of clause (*c*), the State Election Commissioner of concerned State,—

(*i*) in respect of the duties of the Commission relating to a State (other than the States of Meghalaya, Mizoram and Nagaland), means the State Election Commissioner appointed by the Governor of that State under clause (1) of article 243K; and

(*ii*) in respect of the duties of the Commission relating to the State of Meghalaya or the State of Mizoram or the State of Nagaland, as the case may be, means a person nominated by the Governor of that State for such purposes.".

3. In section 4 of the principal Act, in sub-section *(2)*, for the figures "1991", the figures "2001" shall be substituted. Amendment of section 4.

Amendment of section 8.

4. In section 8 of the principal Act,—

(i) in clause *(a)*, for the figures "1991", the figures "2001" shall be substituted;

(ii) in clause *(b)*, for the figures "1991", the figures "2001" shall be substituted.

Amendment of section 9.

5. In section 9 of the principal Act, in sub-section *(1)*, for the figures "1991", the figures "2001" shall be substituted.

Repeal and saving.

6. (*1*) The Delimitation (Amendment) Ordinance, 2003 is hereby repealed. Ord. 6 of 20(

(*2*) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE PREVENTION OF TERRORISM (AMENDMENT) ACT, 2003

No. 4 OF 2004

[2nd *January*, 2004.]

An Act to amend the Prevention of Terrorism Act, 2002.

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

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Terrorism (Amendment) Act, 2003.

(*2*) It shall be deemed to have come into force on the 27th day of October, 2003.

Amendment of section 60.

2002. **2.** In section 60 of the Prevention of Terrorism Act, 2002, after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) Without prejudice to the other provisions of this Act, any Review Committee constituted under sub-section (*1*) shall, on an application by any aggrieved person, review whether there is a *prima facie* case for proceeding against the accused under this Act and issue directions accordingly.

(*5*) Any direction issued under sub-section (*4*),—

(*i*) by the Review Committee constituted by the Central Government, shall be binding on the Central Government, the State Government and the police officer investigating the offence; and

(*ii*) by the Review Committee constituted by the State Government, shall be binding on the State Government and the police officer investigating the offence.

(*6*) Where the reviews under sub-section (*4*) relating to the same offence under this Act, have been made by a Review Committee constituted by the Central Government and a Review Committee constituted by the State Government, under sub-section (*1*), any direction issued by the Review Committee constituted by the Central Government shall prevail.

(*7*) Where any Review Committee constituted under sub-section (*1*) is of opinion that there is no *prima facie* case for proceeding against the accused and issues directions under sub-section (*4*), then, the proceedings pending against the accused shall be deemed to have been withdrawn from the date of such direction.".

Repeal and saving.

3. (*1*) The Prevention of Terrorism (Amendment) Ordinance, 2003, is hereby repealed. Ord. 4 of 2(

(*2*) Notwithstanding such repeal, anything done or any action taken under the Prevention of Terrorism Act, 2002, as amended by the said Ordinance, shall be deemed to have been done or taken under the said Act, as amended by this Act. 15 of 2002.

THE INDIAN COUNCIL OF WORLD AFFAIRS (AMENDMENT) ACT, 2003

No. 5 of 2004

[*7th January*, 2004.]

An Act to amend the Indian Council of World Affairs Act, 2001.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Indian Council of World Affairs (Amendment) Act, 2003. **Short title.**

29 of 2001. **2.** In section 7 of the Indian Council of World Affairs Act, 2001 (hereinafter referred to as the principal Act), in sub-section (*2*),— **Amendment of section 7.**

(*i*) the words and figures "which shall not be later than three months from the date of assent by the President of the Indian Council of World Affairs Bill, 2001" shall be omitted and shall be deemed always to have been omitted;

(*ii*) in clause (*b*), for the words "as may be nominated by the Council", the words, brackets and figure "to be nominated, in the first instance by the Council constituted under sub-section (*1*) and thereafter by the Council constituted under this sub-section" shall be substituted;

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

"(*c*) Director-General, *ex officio* Member-Secretary;";

(*iv*) in clause (*e*), for the words "to be nominated by the Council", the words, brackets and figure "to be nominated, in the first instance by the Council constituted under sub-section (*1*) and thereafter by the Council constituted under this sub-section" shall be substituted;

(*v*) in clause (*f*), for the words "to be nominated by the Council", the words, brackets and figure "to be nominated, in the first instance by the Council constituted under sub-section (*1*) and thereafter by the Council constituted under this sub-section" shall be substituted;

(*vi*) in clause (*g*),—

(*a*) for the words "either media personalities or representatives of organisations", the words "either media personalities or persons from organisations" shall be substituted;

(*b*) for the word "selected", the word "nominated" shall be substituted;

(*vii*) in clause (*h*), for the words "who are representatives of Business or", the words "from Business or" shall be substituted;

(*viii*) in clause (*i*), the words ", to be nominated by the Chairperson of the Governing Body" shall be omitted.

Amendment of section 15.

3. In section 15 of the principal Act, for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) There shall be a Director-General of the Council who shall, before a Council is constituted under sub-section (*2*) of section 7, be appointed by the Council constituted under sub-section (*1*) of that section and thereafter during the tenure of a Council constituted under sub-section (*2*) of section 7, by that Council.

(*1A*) Every appointment of the Director-General under sub-section (*1*) shall be made from a panel of at least two names recommended by the Government of India in the Ministry of External Affairs.

(*1B*) The Director-General shall be the chief executive officer of the Council.

(*1C*) The Director-General shall be at least equivalent to the rank of Additional Secretary to the Government of India and shall have a tenure not exceeding three years.

(*2*) The Director-General shall act as *ex officio* Member-Secretary to the Council, its Governing Body and other bodies and Committees thereof.".

Insertion of new section 23A.

4. After section 23 of the principal Act, the following section shall be inserted, namely:—

Transitory provision.

"23A. For the removal of doubts, it is hereby declared that till the constitution of a Council in terms of sub-section (*2*) of section 7, the Council referred to in sub-section (*1*) thereof shall be deemed to have been a Council for the purposes of this Act notwithstanding anything contrary contained in any provision of this Act:

Provided that anything done or any action taken or any proceeding initiated under any provision of this Act or rules or regulations made thereunder shall not be called in question before any court or other authority because of non-existence of a Council in terms of sub-section (*2*) of section 7.".

Insertion of new section 28A.

5. After section 28 of the principal Act, the following section shall be inserted, namely:—

Power to remove difficulties.

"28A. (*1*) If any difficulty arises in giving effect to the provisions of the Indian Council of World Affairs (Amendment) Act, 2003, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Indian Council of World Affairs (Amendment) Act, 2003.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.".

THE CITIZENSHIP (AMENDMENT) ACT, 2003

No. 6 OF 2004

[*7th January,* 2004.]

An Act further to amend the Citizenship Act, 1955.

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

1. (*1*) This Act may be called the Citizenship (Amendment) Act, 2003. **Short title and commencement.**

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

57 of 1955. **2.** In section 2 of the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in sub-section (*1*),— **Amendment of section 2.**

(*i*) for clauses (*b*) and (*c*) and the proviso to clause (*c*), the following clause shall be substituted, namely:—

'(*b*) "illegal migrant" means a foreigner who has entered into India—

(*i*) without a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf; or

(*ii*) with a valid passport or other travel documents and such other document or authority as may be prescribed by or under any law in that behalf but remains therein beyond the permitted period of time;';

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

'(*ee*) "overseas citizen of India" means a person who—

(*i*) is of Indian origin being a citizen of a specified country, or

(*ii*) was a citizen of India immediately before becoming a citizen of a specified country,

and is registered as an overseas citizen of India by the Central Government under sub-section (*1*) of section 7A;';

(*iii*) after clause (*g*), the following clause shall be inserted, namely:—

'(*gg*) "specified country" means a country specified in the Fourth Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the said Schedule by way of addition or omission of any entry therein:

Provided further that every notification issued under this clause shall, as soon as may be, after it is made, be laid before each House of Parliament;'.

Substitution of new section for section 3.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

Citizenship by birth.

"3. (*1*) Except as provided in sub-section (*2*), every person born in India—

(*a*) on or after the 26th day of January, 1950, but before the 1st day of July, 1987;

(*b*) on or after the 1st day of July, 1987, but before the commencement of the Citizenship (Amendment) Act, 2003 and either of whose parents is a citizen of India at the time of his birth;

(*c*) on or after the commencement of the Citizenship (Amendment) Act, 2003, where—

(*i*) both of his parents are citizens of India; or

(*ii*) one of whose parents is a citizen of India and the other is not an illegal migrant at the time of his birth,

shall be a citizen of India by birth.

(*2*) A person shall not be a citizen of India by virtue of this section if at the time of his birth—

(*a*) either his father or mother possesses such immunity from suits and legal process as is accorded to an envoy of a foreign sovereign power accredited to the President of India and he or she, as the case may be, is not a citizen of India; or

(*b*) his father or mother is an enemy alien and the birth occurs in a place then under occupation by the enemy.".

Amendment of section 4.

4. In section 4 of the principal Act, for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) A person born outside India shall be a citizen of India by descent,—

(*a*) on or after the 26th day of January, 1950, but before the 10th day of December, 1992, if his father is a citizen of India at the time of his birth; or

(*b*) on or after the 10th day of December, 1992, if either of his parents is a citizen of India at the time of his birth:

Provided that if the father of a person referred to in clause (*a*) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section unless—

(*a*) his birth is registered at an Indian consulate within one year of its occurrence or the commencement of this Act, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(*b*) his father is, at the time of his birth, in service under a Government in India:

Provided further that if either of the parents of a person referred to in clause (*b*) was a citizen of India by descent only, that person shall not be a citizen of India by virtue of this section, unless—

(*a*) his birth is registered at an Indian consulate within one year of its occurrence or on or after the 10th day of December, 1992, whichever is later, or, with the permission of the Central Government, after the expiry of the said period; or

(*b*) either of his parents is, at the time of his birth, in service under a Government in India:

Provided also that on or after the commencement of the Citizenship (Amendment) Act, 2003, a person shall not be a citizen of India by virtue of this section, unless his birth is registered at an Indian consulate in such form and in such manner, as may be prescribed,—

(*i*) within one year of its occurrence or the commencement of the Citizenship (Amendment) Act, 2003, whichever is later; or

(*ii*) with the permission of the Central Government, after the expiry of the said period:

Provided also that no such birth shall be registered unless the parents of such person declare, in such form and in such manner as may be prescribed, that the minor does not hold the passport of another country.

(*1A*) A minor who is a citizen of India by virtue of this section and is also a citizen of any other country shall cease to be a citizen of India if he does not renounce the citizenship or nationality of another country within six months of attaining full age.

Amendment of section 5.

5. In section 5 of the principal Act,—

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

"(*1*) Subject to the provisions of this section and such other conditions and restrictions as may be prescribed, the Central Government may, on an application made in this behalf, register as a citizen of India any person not being an illegal migrant who is not already such citizen by virtue of the Constitution or of any other provision of this Act if he belongs to any of the following categories, namely:—

(*a*) a person of Indian origin who is ordinarily resident in India for seven years before making an application for registration;

(*b*) a person of Indian origin who is ordinarily resident in any country or place outside undivided India;

(*c*) a person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration;

(*d*) minor children of persons who are citizens of India;

(*e*) a person of full age and capacity whose parents are registered as citizens of India under clause (*a*) of this sub-section or sub-section (*1*) of section 6;

(*f*) a person of full age and capacity who, or either of his parents, was earlier citizen of independent India, and has been residing in India for one year immediately before making an application for registration;

(*g*) a person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for two years before making an application for registration.

Explanation 1.—For the purposes of clauses (*a*) and (*c*), an applicant shall be deemed to be ordinarily resident in India if—

(*i*) he has resided in India throughout the period of twelve months immediately before making an application for registration; and

(*ii*) he has resided in India during the eight years immediately preceding the said period of twelve months for a period of not less than six years.

Explanation 2.—For the purposes of this sub-section, a person shall be deemed to be of Indian origin if he, or either of his parents, was born in undivided India or in such other territory which became part of India after the 15th day of August, 1947.";

(*b*) after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*6*) If the Central Government is satisfied that circumstances exist which render it necessary to grant exemption from the residential requirement under clause (*c*) of sub-section (*1*) to any person or a class of persons, it may, for reasons to be recorded in writing, grant such exemption.".

Amendment of section 6.

6. In section 6 of the principal Act, in sub-section (*1*), for the words "who is not a citizen of a country specified in the First Schedule", the words "not being an illegal migrant" shall be substituted.

Insertion of heading and new sections 7A, 7B, 7C and 7D.

7. After section 7 of the principal Act, the following heading and sections shall be inserted, namely:—

'OVERSEAS CITIZENSHIP

Registration of overseas citizens.

7A. (*1*) The Central Government may, subject to such conditions and restrictions including the condition of reciprocity as may be prescribed, on an application made in this behalf, register any person as an overseas citizen of India if—

(*a*) that person is of Indian origin of full age and capacity who is a citizen of a specified country; or

(*b*) that person is of full age and capacity who has obtained the citizenship of a specified country on or after the commencement of the Citizenship (Amendment) Act, 2003 and who was a citizen of India immediately before such commencement; or

(*c*) that person is a minor of a person mentioned in clause (*a*) or clause (*b*).

(*2*) The person registered as an overseas citizen of India under sub-section (*1*) shall be an overseas citizen of India as from the date on which he is so registered.

(*3*) No person who has been deprived of his Indian citizenship under this Act shall be registered as an overseas citizen of India under sub-section (*1*) except by an order of the Central Government.

Explanation.—For the purposes of this section and sections 7B, 7C and 7D, the expression "person of Indian origin" shall mean a citizen of another country who—

(*i*) was eligible to become a citizen of India at the time of the commencement of the Constitution;

(*ii*) belonged to a territory that became part of India after the 15th day of August, 1947; and

(*iii*) the children and grand-children of a person covered under clauses (*i*) and (*ii*), but does not include a person who is or had been at any time a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify.

Conferment of rights on overseas citizens of India.

7B. (*1*) Notwithstanding anything contained in any other law for the time being in force, an overseas citizen of India shall be entitled to such rights [other than the rights specified under sub-section (*2*)] as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(*2*) An overseas citizen of India shall not be entitled to the rights conferred on a citizen of India—

(*a*) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(*b*) under article 58 of the Constitution for election as President;

(*c*) under article 66 of the Constitution for election of Vice-President;

(*d*) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(*e*) under article 217 of the Constitution for appointment as a Judge of the High Court;

1950. (*f*) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

1951. (*g*) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

1951. (*h*) under sections 5, 5A and 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or a Legislative Council, as the case may be, of a State;

(*i*) for appointment to public services and posts in connection with the affairs of the Union or of any State except for appointment in such services and posts as the Central Government may by special order in that behalf specify.

(*3*) Every notification issued under sub-section (*1*) shall be laid before each House of Parliament.

Renunciation of overseas citizenship.

7C. (*1*) If any overseas citizen of India of full age and capacity makes in the prescribed manner a declaration renouncing his overseas citizenship of India, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an overseas citizen of India.

(*2*) Where a person ceases to be an overseas citizen of India under sub-section (*1*), every minor child of that person registered as an overseas citizen of India, shall thereupon cease to be an overseas citizen of India.

Cancellation of registration as overseas citizen of India.

7D. The Central Government may, by order, cancel the registration granted under sub-section (*1*) of section 7A if it is satisfied that—

(*a*) the registration as an overseas citizen of India was obtained by means of fraud, false representation or the concealment of any material fact; or

(*b*) the overseas citizen of India has shown disaffection towards the Constitution of India as by law established; or

(*c*) the overseas citizen of India has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or

(*d*) the overseas citizen of India has, within five years after registration under sub-section (*1*) of section 7A has been sentenced to imprisonment for a term of not less than two years; or

(*e*) it is necessary so to do in the interest of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public.'.

Amendment of section 8.

8. In section 8 of the principal Act,—

(*a*) in sub-section (*1*), the words "who is also a citizen or national of another country" shall be omitted;

(*b*) in the proviso to sub-section (*2*), after the word "declaration", the words "in the prescribed form and manner" shall be inserted;

(*c*) sub-section (*3*) shall be omitted.

Amendment of section 9.

9. In section 9 of the principal Act, in sub-section (*2*), for the word "person", the words "citizen of India" shall be substituted.

Omission of sections 11 and 12.

10. Sections 11 and 12 of the principal Act shall be omitted.

Amendment of section 14.

11. In secion 14 of the principal Act, for the words and figures "sections 5 and 6", the words, figures and letter "sections 5, 6 and 7A" shall be substituted.

Insertion of new section 14A.

12. After section 14 of the principal Act, the following section shall be inserted, namely:—

Issue of national identity cards.

"14A. (*1*) The Central Government may compulsorily register every citizen of India and issue national identity card to him.

(*2*) The Central Government may maintain a National Register of Indian Citizens and for that purpose establish a National Registration Authority.

(*3*) On and from the date of commencement of the Citizenship (Amendment) Act, 2003, the Registrar General, India, appointed under sub-section (*1*) of section 3 of the Registration of Births and Deaths Act, 1969 shall act as the National Registration Authority and he shall function as the Registrar General of Citizen Registration. 18 of 1969

(*4*) The Central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging his functions and responsibilities.

(*5*) The procedure to be followed in compulsory registration of the citizens of India shall be such as may be prescribed.

Insertion of new section 15A.

13. After section 15 of the principal Act, the following section shall be inserted, namely:—

Review.

"15A. (*1*) Any person aggrieved by an order made by the Central Government, may, within thirty days from the date of such order, make an application for review of such order:

Provided that the Central Government may entertain an application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time:

Provided further that an application for a review of an order passed in terms of the provisions of section 14A shall be disposed of in the manner provided for in the procedure as may be laid down under clause (*ia*) of sub-section (*2*) of section 18.

(*2*) On receipt of an application under sub-section (*1*), the Central Government shall, make such order as it deems fit, and the decision of the Central Government on such review shall be final.".

14. In section 17 of the principal Act,— Amendment of section 17.

(*a*) for the words "six months", the words "five years" shall be substituted;

(*b*) for the words "with fine", the words "with fine which may extend to fifty thousand rupees" shall be substituted.

15. In section 18 of the principal Act,— Amendment of section 18.

(*i*) in sub-section (*2*),—

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

"(*aa*) the form and manner in which a declaration under sub-section (*1*) of section 4 shall be made;";

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

"(*ia*) the procedure to be followed in compulsory registration of the citizens of India under sub-section (*5*) of section 14A;";

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

"Provided that any rule made in respect of a matter specified in clause (*ia*) of sub-section (*2*) may provide that a breach thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.".

16. The First Schedule to the principal Act shall be omitted. Omission of First Schedule.

17. For the Second Schedule to the principal Act, the following Schedule shall be substituted, namely:— Substitution of Second Schedule by a new Schedule.

"THE SECOND SCHEDULE

[*See* sections 5(*2*) and 6(*2*)]

OATH OF ALLEGIANCE

I, A/B.....do solemnly affirm (or swear) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully observe the laws of India and fulfil my duties as a citizen of India".

18. In the Third Schedule to the principal Act,— Amendment of Third Schedule.

(*a*) in the opening portion, the words "who is not a citizen of a country specified in the First Schedule" shall be omitted;

(*b*) in clause (*b*), for the words "he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government", the words "he undertakes to renounce the citizenship of that country in the event of his application for Indian citizenship being accepted" shall be substituted;

(*c*) in clause (*d*),—

(*i*) for the words "twelve years", the words "fourteen years" shall be substituted;

(*ii*) for the words "nine years", the words "eleven years" shall be substituted;

(*d*) in the proviso, in clause (*ii*), for the words "thirteen years", the words "fifteen years" shall be substituted.

Insertion of new Fourth Schedule

19. After the Third Schedule to the principal Act, the following Schedule shall be inserted, namely:—

"THE FOURTH SCHEDULE

[*See* section 2(*1*)(*gg*)]

1. Australia.
2. Canada.
3. Finland.
4. France.
5. Greece.
6. Ireland.
7. Israel.
8. Italy.
9. Netherlands.
10. New Zealand.
11. Portugal.
12. Republic of Cyprus.
13. Sweden.
14. Switzerland.
15. United Kingdom.
16. United States of America.".

T. K. VISWANATHAN,
Secy. to the Govt. of India.

THE UTTAR PRADESH REORGANISATION (AMENDMENT) ACT, 2003

No. 7 OF 2004

[*7th January*, 2004.]

An Act to amend the Uttar Pradesh Reorganisation Act, 2000.

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

1. This Act may be called the Uttar Pradesh Reorganisation (Amendment) Act, 2003. Short title.

43 of 1950.

2. For section 18 of the Uttar Pradesh Reorganisation Act, 2000, the following section shall be substituted and shall be deemed to have been substituted with effect from the 9th day of November, 2000, namely:— Substitution of section 18 of Act 29 of 2000.

'18. On and from the appointed day, there shall be one hundred seats in the Legislative Council of Uttar Pradesh, and in the Third Schedule to the Representation of the People Act, 1950, for the existing entry 8, the following entry shall be substituted, namely:— Legislative Council of Uttar Pradesh.

"8. Uttar Pradesh.....100 36 8 8 38 10".'.

29 of 2000.

3. All things done and all steps taken by the Legislative Council of Uttar Pradesh during the period commencing on the 9th day of November, 2000 and ending on the day on which the Uttar Pradesh Reorganisation (Amendment) Bill, 2003 receives the assent of the President shall be deemed to have been validly and effectively done or taken as if the provisions of section 18 of the Uttar Pradesh Reorganisation Act, 2000, as substituted by section 2 of this Act were in force at all material times such things were done or such steps were taken. Validation of acts and proceedings of the Uttar Pradesh Legislative Council during certain period.

THE INDIAN TELEGRAPH (AMENDMENT) ACT, 2003

No. 8 of 2004

[*9th January*, 2004.]

An Act further to amend the Indian Telegraph Act, 1885.

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

Short title and commencement.

1. (*1*) This Act may be called the Indian Telegraph (Amendment) Act, 2003.

(*2*) It shall be deemed to have come into force on the 1st day of April, 2002.

Amendment of section 3.

2. In section 3 of the Indian Telegraph Act, 1885 (hereinafter referred to as the principal Act), clause (*1*) shall be renumbered as clause (*1AA*) and before clause (*1AA*) as so renumbered, the following clauses shall be inserted, namely:— 13 of 1885.

'(*1*) "Fund" means the Universal Service Obligation Fund established under sub-section (*1*) of section 9A;

(*1A*) "Universal Service Obligation" means the obligation to provide access to basic telegraph services to people in the rural and remote areas at affordable and reasonable prices;'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*1*), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—The payments made for the grant of a licence under this sub-section shall include such sum attributable to the Universal Service Obligation as may be determined by the Central Government after considering the recommendation made in this behalf by the Telecom Regulatory Authority of India established under sub-section (*1*) of section 3 of the Telecom Regulatory Authority of India Act, 1997.". 24 of 1997.

4. In section 7 of the principal Act, in sub-section (*2*), after clause (*ee*), the following clauses shall be inserted, namely:— Amendment of section 7.

"(*eea*) the manner in which the Fund may be administered;

(*eeb*) the criteria based on which sums may be released.".

5. After Part II of the principal Act, the following Part shall be inserted, namely:— Insertion of new Part IIA.

"PART IIA

UNIVERSAL SERVICE OBLIGATION FUND

9A. (*1*) On and from the commencement of the Indian Telegraph (Amendment) Act, 2003, there shall be deemed to have been established, for the purposes of this Act, a Fund to be called the Universal Service Obligation Fund. Establishment of Universal Service Obligation Fund.

(*2*) The Fund shall be under the control of the Central Government and there shall be credited thereto—

(*a*) any sums of money paid under section 9B;

(*b*) any grants and loans made by the Central Government under section 9C.

(*3*) The balance to the credit of the Fund shall not lapse at the end of the financial year.

9B. The sums of money received towards the Universal Service Obligation under section 4 shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, credit such proceeds to the Fund from time to time for being utilised exclusively for meeting the Universal Service Obligation. Crediting of sums to Consolidated Fund of India.

9C. The Central Government may, after due appropriation made by Parliament by law in this behalf, credit by way of grants and loans such sums of money as that Government may consider necessary in the Fund. Grants and loans by Central Government.

9D. (*1*) The Central Government shall have the power to administer the Fund in such manner as may be prescribed by rules made under this Act. Administration and utilisation of Fund.

(*2*) The Fund shall be utilised exclusively for meeting the Universal Service Obligation.

(*3*) The Central Government shall be responsible for the co-ordination and ensuring timely utilisation and release of sums in accordance with the criteria as may be prescribed by rules made under this Act.".

1. 7 of 2003. **6.** (*1*) The Indian Telegraph (Amendment) Ordinance, 2003, is hereby repealed. Repeal and saving.

1. 7 of 2003. (*2*) Notwithstanding the repeal of the Indian Telegraph (Amendment) Ordinance, 2003, anything done or action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 2003

No. 9 OF 2004

[*9th January*, 2004.]

An Act further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

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

Short title.

1. This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2003.

Amendment of section 2.

2. In section 2 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), after clause (*a*), the following clause shall be inserted, namely:— 30 of 1954.

'(*aa*) "dependent" means any of the following relatives of a deceased member, namely:—

(*i*) a minor legitimate son, and an unmarried legitimate daughter and a widowed mother; or

(*ii*) if wholly dependent on the earnings of the member at the time of his death, a son or a daughter who has attained the age of eighteen years and who is infirm; or

(*iii*) if wholly or in part dependent on the earnings of the member at the time of his death,—

(*a*) the parent; or

(*b*) a minor brother or an unmarried sister; or

(*c*) a widowed daughter-in-law; or

(*d*) a minor child of a pre-deceased son; or

(*e*) a minor child of a pre-deceased daughter where no parent of the child is alive; or

(*f*) the paternal grandparent if no parent of the member is alive; or

(*g*) such other person as may be specified by the rules made under section 9 by the Joint Committee;'.

3. In section 4 of the principal Act,— Amendment of section 4.

(*a*) in sub-section (*2*), after the second proviso, the following provisos shall be inserted, namely:—

"Provided also that in case a member resides within a distance of three hundred kilometers from Delhi, he or his spouse, for the journey performed by him by road, may draw the mileage allowance referred to in sub-clause (*ii*) of clause (*c*) of sub-section (*1*) in place of the travelling allowance which would have been admissible to him had he performed such journey by rail or by road, as the case may be:

Provided also that in case a member resides in the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim or Tripura, he or his spouse may draw the mileage allowance referred to in sub-clause (*ii*) of clause (*c*) of sub-section (*1*) for journey performed by him by road from his residence in any of the said States to the nearest airport.";

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) There shall be paid to a person—

(*a*) who has been elected in a biennial election as a member of the Council of States but the notification in the Official Gazette notifying his name under section 71 of the Representation of the People Act, 1951 has not been published in the Official Gazette; or

of 1951.

(*b*) who has been elected as a member of the House of the People in a general election held for the purpose of constituting a new House of the People but the notification in the Official Gazette notifying his name under section 73 of the Representation of the People Act, 1951 has not been published in the Official Gazette; or

of 1951.

(*c*) who has been elected in a bye-election as a member of either House of Parliament or nominated as a member to either House of Parliament,

an amount equivalent to the fare in respect of every journey performed by him for coming to Delhi before the publication of notification referred to in clause (*a*) or clause (*b*), or election or nomination under clause (*c*):

Provided that in case the journey is performed by rail or steamer or road, he shall be entitled to the reimbursement of the fare or road mileage to which a member is entitled:

Provided further that in case he performs the journey by air, such journey shall be included for the purpose of counting thirty-two journeys referred to in the first proviso to sub-section (*2*) of section 5.".

Amendment of section 5.

4. In section 5 of the principal Act, in sub-section (*2*), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the spouse or companion of a member, as the case may be, may alone perform maximum eight journeys by air from any place of India to the place in India for the purpose of visiting such member and such journey shall be included for the purpose of counting thirty-two journeys referred to in the first proviso to sub-section (*2*).".

Insertion of new section 5A.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

Transit accommodation.

'5A. Where a person referred to in sub-section (*4*) of section 4 comes to Delhi, he shall be entitled to such transit accommodation for such period as may be specified by the rules made under clause (*ccc*) of sub-section (*3*) of section 9 by the Joint Committee.".

Amendment of section 8A.

6. In section 8A of the principal Act, for sub-sections (*1*) and (*1A*), the following sub-sections shall be substituted, namely:—

'(*1*) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2003, there shall be paid a pension of three thousand rupees per mensem to every person who has served for any period, as a member of the Provisional Parliament or either House of Parliament:

Provided that where any person has served as a member of the Provisional Parliament or either House of Parliament for a period exceeding five years, there shall be paid to him an additional pension of six hundred rupees per mensem for every year in excess of five years.

Explanation.—For the purpose of this sub-section, "Provisional Parliament" shall include the body which functioned as the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution.

(*1A*) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2003, there shall be paid a pension of rupees one thousand and five hundred per mensem, to the spouse, if any, or dependent of any member who dies during his term of office as such member, for a period of five years from the date of his death.

Explanation.—For the removal of doubts, it is hereby declared that the spouse or the dependent of the member referred to in this sub-section shall be entitled to receive the family pension even if the member has died on or before the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2003.'.

Substitution of new section for section 8AA.

7. For section 8AA of the principal Act, the following section shall be substituted, namely:—

Travel facilities to ex-Members.

"8AA. Every person who is not a sitting Member but has served for any period as a Member of either House of Parliament shall be,—

(*a*) with effect from the 18th day of January, 1999, entitled along with a companion to travel in any train by any railway in India in air-conditioned two-tier class; or

(*b*) entitled to travel alone in any train by any railway in India in air-conditioned first class,

without payment of any charges on the basis of an authorisation issued for this purpose by the Secretariat of either House of Parliament as the case may be.".

8. After section 8AA of the principal Act, the following section shall be inserted, namely:— Insertion of new section 8AB.

"8AB. Where the period for which the pension is payable under this Act contains a part of a year, then, if such part is nine months or more, it shall be reckoned equivalent to complete one year for the purpose of payment of additional pension under sub-section (*1*) of section 8A and if such part is less than nine months, it shall be ignored.". Rounding off period of pension.

9. In section 9 of the principal Act, in sub-section (*3*),— Amendment of section 9.

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

"(*aa*) the person who may be specified as dependent under sub-clause (*g*) of clause (*aa*) of section 2;";

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

"(*ccc*) the transit accommodation and the period for which such accommodation may be provided under section 5A;";

(*iii*) after clause (*ff*), the following clause shall be inserted, namely:—

"(*fff*) to provide for carry forward of unutilised free telephone calls pertaining to any year beginning on or after the 1st day of April, 2002 to any subsequent year;".

THE APPROPRIATION (RAILWAYS) ACT, 2004

No. 10 of 2004

[*7th February,* 2004.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2003-04 for the purposes of Railways.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (Railways) Act, 2004.

Issue of Rs. 1033,77,98,000 out of the Consolidated Fund of India for the financial year 2003-04.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sums of one thousand thirty-three crores, seventy-seven lakhs and ninety-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2003-04, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

2		3		
). te	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
	General Superintendence and Services on Railways	..	*5,23,000*	5,23,000
4	Repairs and Maintenance of Permanent Way and Works	..	*68,11,000*	68,11,000
5	Repairs and Maintenance of Motive Power	..	*1,18,000*	1,18,000
5	Repairs and Maintenance of Carriages and Wagons	..	*50,02,000*	50,02,000
7	Repairs and Maintenance of Plant and Equipment	..	*71,000*	71,000
8	Operating Expenses—Rolling Stock and Equipment	..	*11,64,000*	11,64,000
9	Operating Expenses—Traffic	..	*10,67,000*	10,67,000
1	Staff Welfare and Amenities	..	*5,75,000*	5,75,000
2	Miscellaneous Working Expenses	..	*9,99,61,000*	9,99,61,000
4	Appropriation to Funds	187,00,00,000	..	187,00,00,000
5	Dividend to General Revenues, Repayment of Loans taken from General Revenues and Amortization of Over-Capitalization	335,25,00,000	..	335,25,00,000
6	Assets—Acquisition, Construction and Replacement—			
	Revenue	9,99,74,000	*26,000*	10,00,00,000
	Other Expenditure			
	Capital	300,00,00,000	..	300,00,00,000
	Railway Funds	146,76,41,000	*39,26,000*	147,15,67,000
	Railway Safety Fund	6,000	..	6,000
	Special Railway Safety Fund	40,64,15,000	*2,20,18,000*	42,84,33,000
	TOTAL	1019,65,36,000	*14,12,62,000*	1033,77,98,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 2004

No. 11 OF 2004

[*7th February*, 2004.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 2002 in excess of the amounts granted for those services and for that year.

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

Short title.

1. This Act may be called the Appropriation (Railways) No. 2 Act, 2004.

Issue of Rs. 210,70,50,825 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st day of March, 2002.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred ten crores, seventy lakhs, fifty thousand, eight hundred and twenty-five rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2002, in excess of the amounts granted for those services and for that year.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 2002.

THE SCHEDULE

(*See* sections 2 and 3)

	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
3	General Superintendence and Services on Railways	..	*6,55,479*	6,55,479
4	Repairs and Maintenance of Permanent Way and Works	..	*7,07,849*	7,07,849
7	Repairs and Maintenance of Plant and Equipment	..	*3,83,181*	3,83,181
8	Operating Expenses—Rolling Stock and Equipment	..	*89,081*	89,081
9	Operating Expenses—Traffic	..	*20,67,315*	20,67,315
1	Staff Welfare and Amenities	..	*8,13,804*	8,13,804
5	Dividend to General Revenues, Repayment of Loans taken from General Revenues and Amortization of Over-Capitalization	209,58,57,115	..	209,58,57,115
16	Assets—Acquisition, Construction and Replacement—			
	Other Expenditure			
	Capital	..	*33,84,815*	33,84,815
	Railway Safety Fund	..	*1,39,186*	1,39,186
	Special Railway Safety Fund	..	*29,53,000*	29,53,000
	TOTAL	209,58,57,115	*1,11,93,710*	210,70,50,825

THE APPROPRIATION (RAILWAYS) VOTE ON ACCOUNT ACT, 2004

No. 12 OF 2004

[*7th February*, 2004.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 2004-05 for the purposes of Railways.

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

Short title.

1. This Act may be called the Appropriation (Railways) Vote on Account Act, 2004.

Issue of Rs. 26111,87,00,000 from and out of the Consolidated Fund of India for the financial year 2004-05.

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sums of twenty-six thousand one hundred eleven crores and eighty-seven lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2004-05, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE
(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board.....	24,11,67,000	..	24,11,67,000
2	Miscellaneous Expenditure (General)	84,66,67,000	..	84,66,67,000
3	General Superintendence and Services on Railways.....	573,30,17,000	*33,333*	573,30,50,333
4	Repairs and Maintenance of Permanent Way and Works.....	1121,41,98,000	*70,000*	1121,42,68,000
5	Repairs and Maintenance of Motive Power.....	576,56,22,000	*16,667*	576,56,38,667
6	Repairs and Maintenance of Carriages and Wagons.....	1141,42,45,000	..	1141,42,45,000
7	Repairs and Maintenance of Plant and Equipment.....	630,75,89,000	..	630,75,89,000
8	Operating Expenses — Rolling Stock and Equipment.....	938,62,74,000	..	938,62,74,000
9	Operating Expenses — Traffic.....	2953,83,79,000	..	2953,83,79,000
10	Operating Expenses — Fuel.....	2760,66,58,000	..	2760,66,58,000
11	Staff Welfare and Amenities.....	470,05,62,000	*98,333*	470,06,60,333
12	Miscellaneous Working Expenses.....	576,57,67,000	*11,94,03,000*	588,51,70,000
13	Provident Fund, Pension and Other Retirement Benefits.....	2186,51,14,000	*22,01,333*	2186,73,15,333
14	Appropriation to Funds.....	3206,66,67,000	..	3206,66,67,000
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortization of Over-Capitalization.....	24,45,22,000	..	24,45,22,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue.....	11,66,67,000	..	11,66,67,000
	Other Expenditure			
	Capital.....	6514,64,28,000	*2,66,66,668*	6517,30,94,668
	Railway Funds.....	1084,76,67,000	*33,33,333*	1085,10,00,333
	Railway Safety Fund.....	133,66,67,000	..	133,66,67,000
	Special Railway Safety Fund.....	1081,96,67,000	*33,33,333*	1082,30,00,333
	TOTAL.....	26096,35,44,000	*15,51,56,000*	26111,87,00,000

THE FINANCE ACT, 2004

No. 13 of 2004

[12*th February*, 2004.]

An Act to continue for the financial year 2004-05 the existing rates of income-tax and the levy of the National Calamity Contingent Duty and the National Calamity Contingent Duty of Customs on certain items.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title and commencement.

1. (*1*) This Act may be called the Finance Act, 2004.

(*2*) Section 2 shall come into force on the 1st day of April, 2004 and section 3 shall come into force at once.

CHAPTER II

Rates of income-tax

Income-tax.

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 2003, shall apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2004, as they apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2003, with the following modifications, namely:— 32 of 2003.

(*a*) in section 2,—

(*i*) in sub-section (*1*), for the figures "2003", the figures "2004" shall be substituted;

(*ii*) in sub-section (*3*),—

(*A*) the second proviso shall be omitted;

(B) for the third proviso, the following proviso shall be substituted, namely:—

"Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 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 every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such income-tax;

(c) in the case of every artificial juridical person referred to in sub-clause *(vii)* of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax.";

(iii) in sub-section *(6)*, in clause *(a)*, for the words "exceeds rupees", the word "exceeds" shall be substituted;

(iv) in sub-section *(8)*, in clause *(a)*, for the words "exceeds rupees", the word "exceeds" shall be substituted;

(v) in sub-section (*11*), in clause (*a*), for the figures "2003", the figures "2004" shall be substituted;

(*b*) in the First Schedule,—

(i) for PART I, the following PART shall be substituted, namely:—

"PART I

INCOME-TAX

Paragraph A

In the case of every individual 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. 50,000	*Nil;*
(2)	where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total income exceeds Rs. 50,000;
(3)	where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4)	where the total income exceeds Rs. 1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every person, other than those mentioned in item (*i*), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding eight hundred and fifty thousand 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 eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

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.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company — 35 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 — 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 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.";

(*ii*) in Part IV, in Rule 8,—

(*A*) for sub-rules (*1*) and (*2*), the following sub-rules shall be substituted, namely:—

"(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, 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, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003, 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, 1996, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April,

1997, 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, 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, 2002 or the 1st day of April, 2003,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, 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, 2003,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

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, 2004.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2005, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004, 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, 1997, 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, 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, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, 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, 2003 or the 1st day of April, 2004,

(*vii*) 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,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

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, 2005.";

(*B*) for sub-rule (*4*), the following sub-rule shall be substituted, namely:—

"(*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 (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).".

CHAPTER III

INDIRECT TAXES

Amendment of section 169 of Act 32 of 2003.

3. In section 169 of the Finance Act, 2003, for the words, figures and letters "the 1st day of March, 2004", the words, figures and letters "the 1st day of April, 2005" shall be substituted.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 2004

No. 14 OF 2004

[12*th February*, 2004.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 2004-05.

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

1. This Act may be called the Appropriation (Vote on Account) Act, 2004. **Short title.**

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three lakhs twenty-one thousand sixty-nine crores and ninety-three lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2004-05. **Withdrawal of Rs. 321069, 93,00,000 from and out of the Consolidated Fund of India for the financial year 2004-05.**

3. The sums authorised to be withdrawn from and out of the Consolidated Fund by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. **Appropriation.**

4. Reference to the Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 8th January, 2004 and shall on or after that date be construed as references to the appropriate Ministries or Departments as constituted from time to time. **Construction of references to Ministries or Departments in the Schedule.**

THE SCHEDULE
(*See* sections 2, 3 and 4)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture and Cooperation	Revenue	1203,13,00,000	..	1203,13,00,000
		Capital	31,58,00,000	*69,90,00,000*	101,48,00,000
2	Department of Agricultural Research and Education	Revenue	584,44,00,000	..	584,44,00,000
3	Department of Animal Husbandry and Dairying	Revenue	276,52,00,000	..	276,52,00,000
		Capital	4,64,00,000	..	4,64,00,000
4	Ministry of Agro and Rural Industries	Revenue	241,34,00,000	..	241,34,00,000
		Capital	54,00,000	..	54,00,000
5	Atomic Energy	Revenue	603,80,00,000	*7,00,000*	603,87,00,000
		Capital	501,11,00,000	..	501,11,00,000
6	Nuclear Power Schemes	Revenue	437,67,00,000	..	437,67,00,000
		Capital	752,54,00,000	..	752,54,00,000
7	Department of Chemicals and Petro-chemicals	Revenue	27,19,00,000	..	27,19,00,000
		Capital	11,67,00,000	..	11,67,00,000
8	Department of Fertilisers	Revenue	6078,40,00,000	*1,00,000*	6078,41,00,000
		Capital	43,99,00,000	..	43,99,00,000
9	Ministry of Civil Aviation	Revenue	147,37,00,000	..	147,37,00,000
		Capital	15,02,00,000	..	15,02,00,000
10	Ministry of Coal	Revenue	106,61,00,000	..	106,61,00,000
		Capital	42,83,00,000		42,83,00,000
11	Ministry of Mines	Revenue	202,21,00,000	*3,00,000*	202,24,00,000
		Capital	58,76,00,000	..	58,76,00,000
12	Department of Commerce	Revenue	595,87,00,000	*13,00,000*	596,00,00,000
		Capital	175,33,00,000	..	175,33,00,000
13	Department of Industrial Policy and Promotion	Revenue	200,13,00,000	*8,00,000*	200,21,00,000
14	Department of Posts	Revenue	2010,12,00,000	*1,00,000*	2010,13,00,000
		Capital	105,80,00,000	..	105,80,00,000
15	Department of Telecommunications	Revenue	669,67,00,000	..	669,67,00,000
		Capital	33,00,000	..	33,00,000
16	Department of Information Technology	Revenue	245,33,00,000	..	245,33,00,000
		Capital	16,50,00,000	..	16,50,000,000
17	Department of Consumer Affairs	Revenue	13,78,00,000	..	13,78,00,000
		Capital	3,00,00,000	..	3,00,00,000
18	Department of Food and Public Distribution	Revenue	9508,93,00,000	*1,00,000*	9508,94,00,000
		Capital	157,41,00,000	..	157,41,00,000
19	Ministry of Defence	Revenue	1870,76,00,000	*9,00,000*	1870,85,00,000
		Capital	145,27,00,000	..	145,27,00,000
20	Defence Pensions	Revenue	3749,91,00,000	*9,00,000*	3750,00,00,000

o. of ote	2 Services and purposes		3 Sums not exceeding Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
	Defence Services—Army	Revenue	9476,36,00,000	*4,64,00,000*	9481,00,00,000
	Defence Services—Navy	Revenue	1808,40,00,000	*81,00,000*	1809,21,00,000
	Defence Services—Air Force	Revenue	2931,86,00,000	*41,00,000*	2932,27,00,000
	Defence Ordnance Factories	Revenue	943,54,00,000	*40,00,000*	943,94,00,000
	Defence Services—Research and Development	Revenue	784,31,00,000	*7,00,000*	784,38,00,000
	Capital Outlay on Defence Services	Capital	7491,00,00,000	*3,29,00,000*	7494,29,00,000
	Department of Development of North Eastern Region	Revenue	346,19,00,000	..	346,19,00,000
		Capital	18,55,00,000	*32,83,00,000*	51,38,00,000
3	Ministry of Disinvestment	Revenue	55,00,00,000	..	55,00,00,000
)	Ministry of Environment and Forests	Revenue	428,15,00,000	..	428,15,00,000
		Capital	5,58,00,000	..	5,58,00,000
)	Ministry of External Affairs	Revenue	1077,55,00,000	*1,00,000*	1077,56,00,000
		Capital	125,54,00,000	..	125,54,00,000
1	Department of Economic Affairs	Revenue	852,82,00,000	..	852,82,00,000
		Capital	514,25,00,000	..	514,25,00,000
2	Currency, Coinage and Stamps	Revenue	311,27,00,000	*21,00,000*	311,48,00,000
		Capital	163,83,00,000	..	163,83,00,000
3	Payments to Financial Institutions	Revenue	1171,80,00,000	..	1171,80,00,000
		Capital	373,71,00,000	..	373,71,00,000
	CHARGED.—*Interest Payments*	Revenue	..	*44499,95,00,000*	44499,95,00,000
5	Transfers to State and Union territory Governments	Revenue	8931,52,00,000	*5545,00,00,000*	14476,52,00,000
		Capital	..	*8922,64,00,000*	8922,64,00,000
6	Loans to Government Servants, etc.	Capital	200,00,00,000	..	200,00,00,000
	CHARGED.—*Repayment of Debt*	Capital	..	*151092,82,00,000*	151092,82,00,000
8	Department of Expenditure	Revenue	8,56,00,000	..	8,56,00,000
9	Pensions	Revenue	1565,99,00,000	*4,61,00,000*	1570,60,00,000
0	Indian Audit and Accounts Department	Revenue	352,85,00,000	*10,55,00,000*	363,40,00,000
		Capital	3,67,00,000	..	3,67,00,000
1	Department of Revenue	Revenue	213,40,00,000	*1,00,000*	213,41,00,000
		Capital	2,37,00,000	..	2,37,00,000
2	Direct Taxes	Revenue	355,32,00,000	*1,00,000*	355,33,00,000
		Capital	35,00,00,000	..	35,00,00,000
3	Indirect Taxes	Revenue	419,03,00,000	*33,00,000*	419,36,00,000
		Capital	67,94,00,000	..	67,94,00,000
4	Department of Company Affairs	Revenue	18,00,00,000	..	18,00,00,000
		Capital	1,00,00,000	..	1,00,00,000
5	Ministry of Food Processing Industries	Revenue	38,56,00,000	..	38,56,00,000
6	Department of Health	Revenue	884,81,00,000	..	884,81,00,000
		Capital	118,57,00,000	..	118,57,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
47	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	75,07,00,000	..	75,07,00,000
		Capital	17,00,000	..	17,00,000
48	Department of Family Welfare	Revenue	2232,12,00,000	..	2232,12,00,000
49	Department of Heavy Industry	Revenue	53,29,00,000	..	53,29,00,000
		Capital	157,04,00,000	..	157,04,00,000
50	Department of Public Enterprises	Revenue	10,88,00,000	..	10,88,00,000
51	Ministry of Home Affairs	Revenue	235,73,00,000	*2,00,000*	235,75,00,000
		Capital	9,35,00,000	..	9,35,00,000
52	Cabinet	Revenue	88,15,00,000	*4,00,000*	88,19,00,000
		Capital	2,33,00,000	..	2,33,00,000
53	Police	Revenue	3634,80,00,000	*1,10,00,000*	3635,90,00,000
		Capital	498,65,00,000	*5,78,00,000*	504,43,00,000
54	Other Expenditure of the Ministry of Home Affairs	Revenue	252,13,00,000	*1,00,000*	252,14,00,000
55	Transfers to Union territory Governments	Revenue	202,34,00,000	..	202,34,00,000
		Capital	136,32,00,000	..	136,32,00,000
56	Department of Elementary Education and Literacy	Revenue	2001,56,00,000	..	2001,56,00,000
57	Department of Secondary Education and Higher Education	Revenue	1685,79,00,000	..	1685,79,00,000
		Capital	1,00,000	..	1,00,000
58	Department of Women and Child Development	Revenue	1148,65,00,000	..	1148,65,00,000
59	Ministry of Information and Broadcasting	Revenue	421,12,00,000	*1,00,000*	421,13,00,000
		Capital	83,62,00,000	..	83,62,00,000
60	Ministry of Labour	Revenue	348,57,00,000	*1,00,000*	348,58,00,000
		Capital	2,00,000	..	2,00,000
61	Election Commission	Revenue	3,83,00.000	..	3,83,00,000
62	Law and Justice	Revenue	1219,90,00,000	..	1219,90,00,000
		Capital	34,00,000	..	34,00,000
	CHARGED.—*Supreme Court of India*	Revenue	..	*11,56,00,000*	11,56,00,000
64	Ministry of Non-Conventional Energy Sources	Revenue	169,74,00,000	..	169,74,00,000
		Capital	32,01,00,000	..	32,01,00,000
65	Department of Ocean Development	Revenue	76,36,00,000	..	76,36,00,000
		Capital	33,00,000	..	33,00,000
66	Ministry of Parliamentary Affairs	Revenue	1,96,00,000	..	1,96,00,000
67	Ministry of Personnel, Public Grievances and Pensions	Revenue	49,38,00,000	..	49,38,00,000
		Capital	38,00,000	*3,00,00,000*	3,38,00,000
68	Ministry of Petroleum and Natural Gas	Revenue	1191,55,00,000	..	1191,55,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
69	Ministry of Planning	Revenue	43,63,00,000	..	43,63,00,000
70	Ministry of Power	Revenue	701,29,00,000	..	701,29,00,000
		Captial	879,20,00,000	..	879,20,00,000
	CHARGED.—*Staff, Household and Allowances of the President*	*Revenue*	..	*5,03,00,000*	5,03,00,000
72	Lok Sabha	Revenue	67,60,00,000	*13,00,000*	67,73,00,000
73	Rajya Sabha	Revenue	29,97,00,000	*7,00,000*	30,04,00,000
	CHARGED.—*Union Public Service Commission*	Revenue	..	*17,33,00,000*	17,33,00,000
75	Secretariat of the Vice-President	Revenue	44,00,000	..	44,00,000
76	Ministry of Road Transport and Highways	Revenue	1791,92,00,000	*13,00,000*	1792,05,00,000
		Capital	2410,98,00,000	*1,80,00,000*	2412,78,00,000
77	Department of Rural Development	Revenue	6054,29,00,000	..	6054,29,00,000
		Capital	2,50,00,000	..	2,50,00,000
78	Department of Land Resources	Revenue	421,49,00,000	..	421,49,00,000
79	Department of Drinking Water Supply	Revenue	1320,46,00,000	..	1320,46,00,000
80	Department of Science and Technology	Revenue	406,50,00,000	*1,00,000*	406,51,00,000
		Capital	23,57,00,000	..	23,57,00,000
81	Department of Scientific and Industrial Research	Revenue	431,97,00,000	..	431,97,00,000
		Capital	1,37,00,000	..	1,37,00,000
82	Department of Bio-technology	Revenue	107,82,00,000	..	107,82,00,000
83	Ministry of Shipping	Revenue	182,02,00,000	..	182,02,00,000
		Capital	102,54,00,000	*6,67,00,000*	109,21,00,000
84	Ministry of Small Scale Industries	Revenue	133,13,00,000	..	133,13,00,000
		Capital	5,00,00,000	..	5,00,00,000
85	Ministry of Social Justice and Empowerment	Revenue	457,14,00,000	..	457,14,00,000
		Capital	43,25,00,000	..	43,25,00,000
86	Department of Space	Revenue	722,31,00,000	*13,00,000*	722,44,00,000
		Capital	188,11,00,000	*12,00,000*	188,23,00,000
87	Ministry of Statistics and Programme Implementation	Revenue	861,80,00,000	..	861,80,00,000
		Capital	6,95,00,000	..	6,95,00,000
88	Ministry of Steel	Revenue	22,70,00,000	..	22,70,00,000
		Capital	5,67,00,000	..	5,67,00,000
89	Ministry of Textiles	Revenue	441,98,00,000	..	441,98,00,000
		Capital	151,56,00,000	*23,00,000*	151,79,00,000
90	Department of Culture	Revenue	221,78,00,000	..	221,78,00,000
		Capital	15,17,00,000	..	15,17,00,000
91	Department of Tourism	Revenue	75,75,00,000	..	75,75,00,000
		Capital	98,17,00,000	..	98,17,00,000
92	Ministry of Tribal Affairs	Revenue	45,15,00,000	*323,14,00,000*	368,29,00,000
		Capital	14,42,00,000	..	14,42,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
93	Andaman and Nicobar Islands	Revenue	302,33,00,000	*1,00,000*	302,34,00,000
		Capital	69,44,00,000	..	69,44,00,000
94	Chandigarh	Revenue	300,81,00,000	*10,31,00,000*	311,12,00,000
		Capital	50,78,00,000	*8,00,000*	50,86,00,000
95	Dadra and Nagar Haveli	Revenue	151,27,00,000	..	151,27,00,000
		Capital	11,83,00,000	..	11,83,00,000
96	Daman and Diu	Revenue	82,50,00,000	..	82,50,00,000
		Capital	9,93,00,000	..	9,93,00,000
97	Lakshadweep	Revenue	72,89,00,000	..	72,89,00,000
		Capital	12,68,00,000	..	12,68,00,000
98	Department of Urban Development	Revenue	320,58,00,000	*4,89,00,000*	325,47,00,000
		Capital	598,64,00,000	*3,00,00,000*	601,64,00,000
99	Public Works	Revenue	229,47,00,000	*33,00,000*	229,80,00,000
		Capital	80,16,00,000	*33,00,000*	80,49,00,000
100	Stationery and Printing	Revenue	49,02,00,000	..	49,02,00,000
		Capital	7,00,000	..	7,00,000
101	Department of Urban Employment and Poverty Alleviation	Revenue	150,38,00,000	..	150,38,00,000
		Capital	103,85,00,000	..	103,85,00,000
102	Ministry of Water Resources	Revenue	264,46,00,000	..	264,46,00,000
		Capital	19,16,00,000	*1,17,00,000*	20,33,00,000
103	Ministry of Youth Affairs and Sports	Revenue	150,59,00,000	..	150,59,00,000
		Capital	4,75,00,000	..	4,75,00,000
	TOTAL		110484,48,00,000	*210585,45,00,000*	321069,93,00,000

THE APPROPRIATION ACT, 2004

No. 15 OF 2004

[12*th February*, 2004.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2003-2004.

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

1. This Act may be called the Appropriation Act, 2004. Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of thirty-one thousand one hundred five crores and two lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2003-04, in respect of the services specified in column 2 of the Schedule. Issue of Rs. 31105,02,00,000 out of the Consolidated Fund of India for the financial year 2003-04.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(*See* sections 2 and 3)

1	2		3		
			Sums not exceeding		
No. of Vote	Services and purposes		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture and Cooperation	Revenue	2,00,000	..	2,00,000
4	Ministry of Agro and Rural Industries.....	Revenue	50,00,00,000	..	50,00,00,000
5	Atomic Energy.....	Capital	1,00,000	..	1,00,000
6	Nuclear Power Schemes.....	Capital	257,60,00,000	..	257,60,00,000
8	Department of Fertilisers.....	Revenue	88,38,00,000	..	88,38,00,000
10	Ministry of Coal	Revenue	1,00,000	..	1,00,000
11	Ministry of Mines.....	Capital	93,84,00,000	..	93,84,00,000
12	Department of Commerce	Revenue	5,61,00,000	*20,00,000*	5,81,00,000
13	Department of Industrial Policy and Promotion	Revenue	1,00,000	..	1,00,000
14	Department of Posts	Revenue	211,16,00,000	*15,00,000*	211,31,00,000
		Capital	..	*16,00,000*	16,00,000
15	Department of Telecommunications	Revenue	275,62,00,000	..	275,62,00,000
16	Department of Information Technology	Revenue	7,51,00,000	..	7,51,00,000
		Capital	20,00,00,000	..	20,00,00,000
19	Ministry of Defence	Revenue	248,92,00,000	..	248,92,00,000
21	Defence Services—Army.....	Revenue	..	*2,00,00,000*	2,00,00,000
24	Defence Ordnance Factories	Revenue	238,04,00,000	..	238,04,00,000
25	Defence Services—Research and Development	Revenue	..	*14,00,000*	14,00,000
27	Department of Development of North-Eastern Region	Capital	1,00,000	..	1,00,000
28	Ministry of Disinvestment	Revenue	20,63,00,000	..	20,63,00,000
29	Ministry of Environment and Forests	Revenue	1,00,000	..	1,00,000
31	Department of Economic Affairs	Revenue	3,00,000	..	3,00,000
32	Currency, Coinage and Stamps	Revenue	..	*16,00,000*	16,00,000
33	Payments to Financial Institutions	Revenue	786,00,00,000	..	786,00,00,000
		Capital	2,00,000	..	2,00,000
	CHARGED.—*Interest Payments*	Revenue	..	*4729,84,00,000*	4729,84,00,000
	CHARGED.—*Repayment of Debt*.....	Capital	..	*21701,79,00,000*	21701,79,00,000
38	Department of Expenditure	Revenue	1,20,00,000	..	1,20,00,000
40	Indian Audit and Accounts Department.....	Revenue	46,18,00,000	*95,00,000*	47,13,00,000
43	Indirect Taxes.....	Revenue	139,00,00,000	..	139,00,00,000
45	Ministry of Food Processing Industries	Revenue	1,00,000	..	1,00,000
46	Department of Health	Revenue	90,02,00,000	..	90,02,00,000
47	Department of Indian Systems of Medicine and Homoeopathy	Revenue	1,00,000	..	1,00,000
48	Department of Family Welfare	Revenue	1,00,000	..	1,00,000
51	Ministry of Home Affairs.....	Revenue	32,64,00,000	..	32,64,00,000
		Capital	3,05,00,000	..	3,05,00,000
52	Cabinet.....	Revenue	48,15,00,000	*7,00,000*	48,22,00,000
		Capital	4,38,00,000	..	4,38,00,000
53	Police	Revenue	845,37,00,000	*91,00,000*	846,28,00,000
		Capital	251,00,00,000	*25,00,000*	251,25,00,000
54	Other Expenditure of the Ministry of Home Affairs	Revenue	3,00,000	..	3,00,000
55	Transfers to Union territory Governments	Revenue	1,24,00,000	..	1,24,00,000
57	Department of Secondary Education and Higher Education	Revenue	4,00,000	..	4,00,000
59	Ministry of Information and Broadcasting	Revenue	1,00,000	..	1,00,000
60	Ministry of Labour	Revenue	1,00,000	..	1,00,000

1	2		3		
			Sums not exceeding		
No. of Vote	Services and purposes		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
62	Law and Justice	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000
	CHARGED.—*Supreme Court of India*	Revenue	..	*6,46,00,000*	6,46,00,000
66	Ministry of Parliamentary Affairs	Revenue	1,72,00,000	..	1,72,00,000
67	Ministry of Personnel, Public Grievances and Pensions	Capital	60,00,000	..	60,00,000
68	Ministry of Petroleum and Natural Gas	Revenue	1,00,000	..	1,00,000
		Capital	319,36,00,000	..	319,36,00,000
70	Ministry of Power	Revenue	1,00,000	..	1,00,000
	CHARGED.—*Staff, Household and Allowances of the President*	Revenue	..	*60,00,000*	60,00,000
72	Lok Sabha	Revenue	2,95,00,000	*57,00,000*	3,52,00,000
73	Rajya Sabha	Revenue	7,54,00,000	*19,00,000*	7,73,00,000
	CHARGED.—*Union Public Service Commission*	Revenue	..	*77,00,000*	77,00,000
76	Ministry of Road Transport and Highways	Revenue	4,28,00,000	..	4,28,00,000
		Capital	1,00,000	*10,00,000*	11,00,000
77	Department of Rural Development	Revenue	3,61,00,000	..	3,61,00,000
79	Department of Drinking Water Supply	Revenue	20,01,00,000	..	20,01,00,000
80	Department of Science and Technology	Revenue	1,00,000	..	1,00,000
82	Department of Biotechnology	Revenue	1,00,000	..	1,00,000
83	Ministry of Shipping	Revenue	2,00,000	..	2,00,000
		Capital	..	*8,00,00,000*	8,00,00,000
84	Ministry of Small Scale Industries	Revenue	1,00,000	..	1,00,000
87	Ministry of Statistics and Programme Implementation	Revenue	100,00,00,000	..	100,00,00,000
89	Ministry of Textiles	Revenue	3,00,000	..	3,00,000
90	Department of Culture	Revenue	6,71,00,000	..	6,71,00,000
93	Andaman and Nicobar Islands	Revenue	1,00,000	..	1,00,000
		Capital	8,36,00,000	..	8,36,00,000
94	Chandigarh	Revenue	1,00,000	*1,15,00,000*	1,16,00,000
		Capital	2,17,00,000	..	2,17,00,000
95	Dadra and Nagar Haveli	Revenue	75,52,00,000	..	75,52,00,000
97	Lakshadweep	Capital	2,24,00,000	..	2,24,00,000
98	Department of Urban Development	Revenue	75,51,00,000	..	75,51,00,000
		Capital	250,01,00,000	*2,47,00,000*	252,48,00,000
99	Public Works	Capital	1,00,000	..	1,00,000
101	Department of Urban Employment and Proverty Alleviation	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000
102	Ministry of Water Resources	Capital	1,53,00,000	..	1,53,00,000
103	Ministry of Youth Affairs and Sports	Revenue	1,00,000	..	1,00,000
	TOTAL		4648,09,00,000	*26456,93,00,000*	31105,02,00,000

THE FOREIGNERS (AMENDMENT) ACT, 2004

No. 16 OF 2004

[20*th February*, 2004.]

An Act further to amend the Foreigners Act, 1946.

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

Short title.

1. This Act may be called the Foreigners (Amendment) Act, 2004.

Substitution of new sections for section 14.

2. For section 14 of the Foreigners Act, 1946, the following sections shall be substituted, namely:— 31 of 1946.

Penalty for contravention of provisions of the Act, etc.

'14. Whoever—

(*a*) remains in any area in India for a period exceeding the period for which the visa was issued to him;

(*b*) does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part thereunder;

(*c*) contravenes the provisions of this Act or of any order made thereunder or any direction given in pursuance of this Act or such order for which no specific punishment is provided under this Act,

shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (*f*) of sub-section (*2*) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.

Explanation.— For the purposes of this section, the expression "visa" shall have the same meaning as assigned to it under the Passport (Entry into India) Rules, 1950 made under the Passport (entry into India) Act, 1920.

34 of 1920.

Penalty for entry in restricted areas, etc.

14A. Whoever—

(*a*) enters into any area in India, which is restricted for his entry under any order made under this Act, or any direction given in pursuance thereof, without obtaining a permit from the authority, notified by the Central Government in the Official Gazette, for this purpose or remains in such area beyond the period specified in such permit for his stay; or

(*b*) enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, under the provisions of any order made under this Act or any direction given in pursuance thereof,

shall be punished with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees; and if he has entered into a bond in pursuance of clause (*f*) of sub-section (*2*) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.

Penalty for using forged passport.

14B. Whoever knowingly uses a forged passport for entering into India or remains therein without the authority of law for the time being in force shall be punishable with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees.

Penalty for abetment.

14C. Whoever abets any offence punishable under section 14 or section 14A or section 14B shall, if the act abetted is committed in consequence of the abetment, be punished with the punishment provided for the offence.

Explanation.—For the purposes of this section,—

(*i*) an act or offence is said to be committed in consequence of the abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the offence;

(*ii*) the expression "abetment" shall have the same meaning as assigned to it under section 107 of the Indian Penal Code.'.

45 of 1860.

THE BRITISH STATUTES (REPEAL) ACT, 2004

No. 17 of 2004

[20*th February*, 2004.]

An Act to repeal the British Law Ascertainment Act, 1859, the Foreign Law Ascertainment Act, 1861, the Colonial Probates Act, 1892, in so far as they apply to India, and the India (Consequential Provision) Act, 1949.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the British Statutes (Repeal) Act, 2004.

Definition.

2. In this Act, "British Statutes" means the British Law Ascertainment Act, 1859, the Foreign Law Ascertainment Act, 1861, the Colonial Probates Act, 1892, in so far as they apply to India, and the India (Consequential Provision) Act, 1949.

22&23 Vict. C.63
24&25 Vict.C.11
55&56 Vict.C.6
12,13 & 14 Geor. VI C.92.

Repeal.

3. The British Statutes are hereby repealed.

THE APPROPRIATION (RAILWAYS) VOTE ON ACCOUNT No. 2 ACT, 2004

No. 18 OF 2004

[22*nd July*, 2004.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 2004-05 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Vote on Account No. 2 Act, 2004. **Short title.**

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of forty thousand six hundred seventeen crores, forty-six lakhs, fifty thousand and five hundred rupees [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Railways) Vote on Account Act, 2004] towards defraying the several charges which will come in course of payment during the financial year 2004-05, in respect of the services relating to Railways specified in column 2 of the Schedule. **Withdrawal of Rs. 40617,46,50,500 from and out of the Consolidated Fund of India for the financial year 2004-05.**

12 of 2004.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. **Appropriation.**

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	37,52,50,000	..	37,52,50,000
2	Miscellaneous Expenditure (General)	127,00,00,000	..	127,00,00,000
3	General Superintendence and Services on Railways	874,57,25,000	*50,000*	874,57,75,000
4	Repairs and Maintenance of Permanent Way and Works	1626,48,97,000	*1,05,000*	1626,50,02,000
5	Repairs and Maintenance of Motive Power	834,59,83,000	*25,000*	834,60,08,000
6	Repairs and Maintenance of Carriages and Wagons	1730,31,17,000	..	1730,31,17,000
7	Repairs and Maintenance of Plant and Equipment	933,07,84,000	..	933,07,84,000
8	Operating Expenses—Rolling Stock and Equipment	1417,11,11,000	..	1417,11,11,000
9	Operating Expenses—Traffic	5385,12,74,000	..	5385,12,74,000
10	Operating Expenses—Fuel	4138,21,37,000	..	4138,21,37,000
11	Staff Welfare and Amenities	689,91,93,000	*1,47,500*	689,93,40,500
12	Miscellaneous Working Expenses	856,23,50,000	*17,91,04,500*	874,14,54,500
13	Provident Fund, Pension and Other Retirement Benefits	3229,76,71,000	*33,02,000*	3230,09,73,000
14	Appropriation to Funds	5070,00,00,000	..	5070,00,00,000
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortisation of Over-Capitalisation	36,67,82,500	..	36,67,82,500
16	Assets—Acquisition, Construction and Replacement—			
	Revenue	17,50,00,000	..	17,50,00,000
	Other Expenditure:			
	Capital	9937,96,42,000	*4,00,00,000*	9941,96,42,000
	Railway Funds	1759,65,00,000	*50,00,000*	1760,15,00,000
	Railway Safety Fund	200,50,00,000	..	200,50,00,000
	Special Railway Safety Fund	1691,95,00,000	*50,00,000*	1692,45,00,000
	TOTAL:	40594,19,16,500	*23,27,34,000*	40617,46,50,500

THE APPROPRIATION (No. 2) ACT, 2004

No. 19 of 2004

[29*th July*, 2004.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 2002, in excess of the amounts granted for those services and for that year.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 2) Act, 2004. **Short title.**

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule, amounting in the aggregate to the sum of eight hundred seventy-eight crores, eighty-three lakhs, thirty-one thousand, six hundred seventy-eight rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2002, in excess of the amounts granted for those services and for that year. **Issue of Rs. 878,83,31,678 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 2002.**

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 2002. **Appropriation.**

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Excess		
		Voted portion	Charged portion	Total
		Rs.	Rs.	Rs.
11	Department of Posts ..... Revenue	..	*45,000*	45,000
	Capital	..	*15,83,000*	15,83,000
12	Department of Telecommunications ..... Capital	114,36,47,956	..	114,36,47,956
25	Payments to Financial Institutions ..... Capital	731,35,86,493	..	731,35,86,493
	CHARGED.—*Interest Payments* ..... Revenue	..	*28,39,19,677*	28,39,19,677
44	Other Expenditure of the Ministry of Home Affairs ..... Capital	..	*5,73,600*	5,73,600
80	Department of Urban Development ..... Capital	4,49,75,952	..	4,49,75,952
	TOTAL	850,22,10,401	*28,61,21,277*	878,83,31,678

THE APPROPRIATION (VOTE ON ACCOUNT) No. 2 ACT, 2004

No. 20 OF 2004

[29*th July*, 2004.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 2004-05.

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

Short title.

1. This Act may be called the Appropriation (Vote on Account) No. 2 Act, 2004.

Withdrawal of Rs. 478519,07,00,000 from and out of the Consolidated Fund of India for the financial year 2004-05.

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of four lakhs seventy-eight thousand five hundred nineteen crores and seven lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2004-05.

Appropriation.

3. The sums authorised to be withdrawn from and out of the Consolidated Fund by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Construction of references to Ministries or Departments in the Schedule.

4. References to the Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 9th June, 2004 and shall on or after that date be construed as references to the appropriate Ministries or Departments as constituted from time to time.

THE SCHEDULE
(*See* sections 2, 3 and 4)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture and Cooperation	Revenue	1489,86,00,000	..	1489,86,00,000
		Capital	43,48,00,000	*77,92,00,000*	121,40,00,000
2	Department of Agricultural Research and Education	Revenue	876,66,00,000	..	876,66,00,000
3	Department of Animal Husbandry and Dairying	Revenue	412,91,00,000	..	412,91,00,000
		Capital	6,96,00,000	..	6,96,00,000
4	Ministry of Agro and Rural Industries	Revenue	380,01,00,000	..	380,01,00,000
		Capital	81,00,000	..	81,00,000
5	Atomic Energy	Revenue	905,70,00,000	*10,00,000*	905,80,00,000
		Capital	751,66,00,000	..	751,66,00,000
6	Nuclear Power Schemes	Revenue	656,51,00,000	..	656,51,00,000
		Capital	1128,81,00,000	..	1128,81,00,000
7	Department of Chemicals and Petrochemicals	Revenue	42,68,00,000	..	42,68,00,000
		Capital	24,17,00,000	..	24,17,00,000
8	Department of Fertilisers	Revenue	9655,92,00,000	*1,00,000*	9655,93,00,000
		Capital	65,99,00,000	..	65,99,00,000
9	Ministry of Civil Aviation	Revenue	187,72,00,000	..	187,72,00,000
		Capital	22,53,00,000	..	22,53,00,000
10	Department of Coal	Revenue	159,91,00,000	..	159,91,00,000
		Capital	64,25,00,000	..	64,25,00,000
11	Department of Mines	Revenue	270,82,00,000	*5,00,000*	270,87,00,000
		Capital	72,14,00,000	..	72,14,00,000
12	Department of Commerce	Revenue	906,46,00,000	*20,00,000*	906,66,00,000
		Capital	263,00,00,000	..	263,00,00,000
13	Department of Industrial Policy and Promotion	Revenue	291,88,00,000	*13,00,000*	292,01,00,000
		Capital	9,55,00,000	..	9,55,00,000
14	Department of Posts	Revenue	3115,05,00,000	*1,00,000*	3115,06,00,000
		Capital	124,30,00,000	..	124,30,00,000
15	Department of Telecommunications	Revenue	1165,62,00,000	..	1165,62,00,000
		Capital	50,00,000	..	50,00,000
16	Department of Information Technology	Revenue	368,00,00,000	..	368,00,00,000
		Capital	24,75,00,000	..	24,75,00,000
17	Ministry of Company Affairs	Revenue	27,25,00,000	..	27,25,00,000
		Capital	1,50,00,000	..	1,50,00,000
18	Department of Consumer Affairs	Revenue	20,67,00,000	..	20,67,00,000
		Capital	4,96,00,000	..	4,96,00,000
19	Department of Food and Public Distribution	Revenue	13307,75,00,000	*1,00,000*	13307,76,00,000
		Capital	236,11,00,000	..	236,11,00,000
20	Ministry of Culture	Revenue	333,17,00,000	..	333,17,00,000
		Capital	22,75,00,000	..	22,75,00,000
21	Ministry of Defence	Revenue	3981,86,00,000	*13,00,000*	3981,99,00,000
		Capital	217,91,00,000	..	217,91,00,000
22	Defence Pensions	Revenue	5624,87,00,000	*13,00,000*	5625,00,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
23	Defence Services—Army	Revenue	14314,54,00,000	*6,96,00,000*	14321,50,00,000
24	Defence Services—Navy	Revenue	2687,60,00,000	*122,00,000*	2688,82,00,000
25	Defence Services—Air Force	Revenue	4322,79,00,000	*62,00,000*	4323,41,00,000
26	Defence Ordnance Factories	Revenue	943,54,00,000	*60,00,000*	944,14,00,000
27	Defence Services—Research and Development	Revenue	1176,47,00,000	*11,00,000*	1176,58,00,000
28	Capital Outlay on Defence Services	Capital	16736,50,00,000	*4,93,00,000*	16741,43,00,000
29	Ministry of Development of North Eastern Region	Revenue	519,28,00,000	..	519,28,00,000
		Capital	28,96,00,000	*49,25,00,000*	78,21,00,000
30	Ministry of Environment and Forests	Revenue	642,23,00,000	..	642,23,00,000
		Capital	8,38,00,000	..	8,38,00,000
31	Ministry of External Affairs	Revenue	1823,54,00,000	*2,00,000*	1823,56,00,000
		Capital	261,32,00,000	..	261,32,00,000
32	Department of Economic Affairs	Revenue	1280,58,00,000	..	1280,58,00,000
		Capital	771,38,00,000	..	771,38,00,000
33	Currency, Coinage and Stamps	Revenue	466,91,00,000	*32,00,000*	467,23,00,000
		Capital	245,75,00,000	..	245,75,00,000
34	Payments to Financial Institutions	Revenue	1757,71,00,000	..	1757,71,00,000
		Capital	4604,57,00,000	..	4604,57,00,000
	CHARGED.—*Interest Payments*	Revenue	..	*66749,93,00,000*	66749,93,00,000
36	Transfers to State and Union territory Governments	Revenue	13404,78,00,000	*8310,00,00,000*	21714,78,00,000
		Capital	..	*13383,96,00,000*	13383,96,00,000
37	Loans to Government Servants, etc.	Capital	300,00,00,000	..	300,00,00,000
	CHARGED.—*Repayment of Debt*	Capital	..	*209410,00,00,000*	209410,00,00,000
39	Department of Expenditure	Revenue	13,31,00,000	..	13,31,00,000
40	Pensions	Revenue	2348,98,00,000	*6,92,00,000*	2355,90,00,000
41	Indian Audit and Accounts Department	Revenue	552,27,00,000	*16,32,00,000*	568,59,00,000
		Capital	5,50,00,000	..	5,50,00,000
42	Department of Revenue	Revenue	270,80,00,000	*1,00,000*	270,81,00,000
		Capital	2,53,00,000	..	2,53,00,000
43	Direct Taxes	Revenue	572,98,00,000	*1,00,000*	572,99,00,000
		Capital	51,00,00,000	..	51,00,00,000
44	Indirect Taxes	Revenue	630,80,00,000	*50,00,000*	631,30,00,000
		Capital	99,42,00,000	..	99,42,00,000
45	Department of Disinvestment	Revenue	55,00,00,000	..	55,00,00,000
46	Ministry of Food Processing Industries	Revenue	57,84,00,000	..	57,84,00,000
47	Department of Health	Revenue	1535,64,00,000	..	1535,64,00,000
		Capital	177,85,00,000	..	177,85,00,000
48	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	112,61,00,000	..	112,61,00,000
		Capital	26,00,000	..	26,00,000
49	Department of Family Welfare	Revenue	3348,19,00,000	..	3348,19,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
50	Department of Heavy Industry	Revenue	79,94,00,000	..	79,94,00,000
		Capital	235,57,00,000	..	235,57,00,000
51	Department of Public Enterprises	Revenue	16,33,00,000	..	16,33,00,000
52	Ministry of Home Affairs	Revenue	353,61,00,000	*3,00,000*	353,64,00,000
		Capital	14,03,00,000	..	14,03,00,000
53	Cabinet	Revenue	81,52,00,000	*3,00,000*	81,55,00,000
		Capital	50,00,000	..	50,00,000
54	Police	Revenue	5454,20,00,000	*1,65,00,000*	5455,85,00,000
		Capital	750,98,00,000	*8,68,00,000*	759,66,00,000
55	Other Expenditure of the Ministry of Home Affairs	Revenue	378,19,00,000	*1,00,000*	378,20,00,000
56	Transfers to Union territory Governments	Revenue	303,52,00,000	..	303,52,00,000
		Capital	204,49,00,000	..	204,49,00,000
57	Department of Elementary Education and Literacy	Revenue	5237,30,00,000	..	5237,30,00,000
58	Department of Secondary Education and Higher Education	Revenue	2528,69,00,000	..	2528,69,00,000
		Capital	1,00,000	..	1,00,000
59	Department of Women and Child Development	Revenue	1480,64,00,000	..	1480,64,00,000
60	Ministry of Information and Broadcasting	Revenue	631,68,00,000	*2,00,000*	631,70,00,000
		Capital	125,43,00,000	..	125,43,00,000
61	Ministry of Labour and Employment	Revenue	522,86,00,000	*1,00,000*	522,87,00,000
		Capital	3,00,000	..	3,00,000
62	Election Commission	Revenue	5,75,00,000	..	5,75,00,000
63	Law and Justice	Revenue	1255,85,00,000	..	1255,85,00,000
		Capital	51,00,000	..	51,00,000
	CHARGED.—*Supreme Court of India*	Revenue	..	*17,34,00,000*	17,34,00,000
65	Ministry of Non-Conventional Energy Sources	Revenue	254,62,00,000	..	254,62,00,000
		Capital	48,02,00,000	..	48,02,00,000
66	Ministry of Non Resident Indians Affairs	Revenue	3,00,00,000	..	3,00,00,000
		Capital	50,00,000	..	50,00,000
67	Ministry of Panchayati Raj	Revenue	15,52,00,000	..	15,52,00,000
68	Department of Ocean Development	Revenue	114,54,00,000	..	114,54,00,000
		Capital	50,00,000	..	50,00,000
69	Ministry of Parliamentary Affairs	Revenue	2,95,00,000	..	2,95,00,000
70	Ministry of Personnel, Public Grievances and Pensions	Revenue	125,86,00,000	*4,00,000*	125,90,00,000
		Capital	3,58,00,000	*4,50,00,000*	8,08,00,000
71	Ministry of Petroleum and Natural Gas	Revenue	1786,71,00,000	..	1786,71,00,000
72	Ministry of Planning	Revenue	3223,44,00,000	..	3223,44,00,000
		Capital	911,50,00,000	*930,50,00,000*	1842,00,00,000
73	Ministry of Power	Revenue	1051,94,00,000	..	1051,94,00,000
		Capital	1318,80,00,000	..	1318,80,00,000
	CHARGED.—*Staff, Household and Allowances of the President*	Revenue	..	*7,54,00,000*	7,54,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
75	Lok Sabha	Revenue	101,40,00,000	*20,00,000*	101,60,00,000
76	Rajya Sabha	Revenue	44,96,00,000	*10,00,000*	45,06,00,000
	CHARGED.—*Union Public Service Commission*	Revenue		*26,00,00,000*	26,00,00,000
78	Secretariat of the Vice-President	Revenue	1,56,00,000	..	1,56,00,000
79	Ministry of Road Transport and Highways	Revenue	2687,88,00,000	*20,00,000*	2688,08,00,000
		Capital	3616,48,00,000	*2,70,00,000*	3619,18,00,000
80	Department of Rural Development	Revenue	7549,48,00,000	..	7549,48,00,000
		Capital	2,50,00,000	..	2,50,00,000
81	Department of Land Resources	Revenue	632,24,00,000	..	632,24,00,000
82	Department of Drinking Water Supply	Revenue	1650,70,00,000	..	1650,70,00,000
83	Department of Science and Technology	Revenue	609,76,00,000	*1,00,000*	609,77,00,000
		Capital	35,35,00,000	..	35,35,00,000
84	Department of Scientific and Industrial Research	Revenue	647,95,00,000	..	647,95,00,000
		Capital	2,05,00,000	..	2,05,00,000
85	Department of Bio-technology	Revenue	161,73,00,000	..	161,73,00,000
86	Ministry of Shipping	Revenue	273,04,00,000	..	273,04,00,000
		Capital	153,82,00,000	*10,00,00,000*	163,82,00,000
87	Ministry of Small Scale Industries	Revenue	199,70,00,000	..	199,70,00,000
		Capital	7,50,00,000	..	7,50,00,000
88	Ministry of Social Justice and Empowerment	Revenue	685,71,00,000	..	685,71,00,000
		Capital	89,88,00,000	..	89,88,00,000
89	Department of Space	Revenue	1055,97,00,000	*19,00,000*	1056,16,00,000
		Capital	274,67,00,000	*18,00,000*	274,85,00,000
90	Ministry of Statistics and Programme Implementation	Revenue	882,69,00,000	..	882,69,00,000
		Capital	10,42,00,000	..	10,42,00,000
91	Ministry of Steel	Revenue	74,16,00,000	..	74,16,00,000
		Capital	44,45,00,000	..	44,45,00,000
92	Ministry of Textiles	Revenue	662,97,00,000	..	662,97,00,000
		Capital	227,34,00,000	*35,00,000*	227,69,00,000
93	Ministry of Tourism	Revenue	113,62,00,000	..	113,62,00,000
		Capital	147,25,00,000	..	147,25,00,000
94	Ministry of Tribal Affairs	Revenue	68,91,00,000	*484,72,00,000*	553,63,00,000
		Capital	21,63,00,000	..	21,63,00,000
95	Andaman and Nicobar Islands	Revenue	453,49,00,000	*1,00,000*	453,50,00,000
		Capital	104,16,00,000	..	104,16,00,000
96	Chandigarh	Revenue	451,22,00,000	*15,47,00,000*	466,69,00,000
		Capital	76,18,00,000	*13,00,000*	76,31,00,000
97	Dadra and Nagar Haveli	Revenue	226,91,00,000	..	226,91,00,000
		Capital	17,75,00,000	..	17,75,00,000
98	Daman and Diu	Revenue	123,75,00,000	..	123,75,00,000
		Capital	14,90,00,000	..	14,90,00,000
99	Lakshadweep	Revenue	109,33,00,000	..	109,33,00,000
		Capital	19,02,00,000	..	19,02,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
100	Department of Urban Development	Revenue	477,18,00,000	*11,03,00,000*	488,21,00,000
		Capital	657,96,00,000	*4,50,00,000*	662,46,00,000
101	Public Works	Revenue	344,20,00,000	*50,00,000*	344,70,00,000
		Capital	120,25,00,000	*50,00,000*	120,75,00,000
102	Stationery and Printing	Revenue	73,53,00,000	..	73,53,00,000
		Capital	10,00,000	..	10,00,000
103	Department of Urban Employment and Poverty Alleviation	Revenue	225,57,00,000	..	225,57,00,000
		Capital	155,78,00,000	..	155,78,00,000
104	Ministry of Water Resources	Revenue	396,69,00,000	..	396,69,00,000
		Capital	28,74,00,000	*1,75,00,000*	30,49,00,000
105	Ministry of Youth Affairs and Sports	Revenue	225,88,00,000	..	225,88,00,000
		Capital	7,12,00,000	..	7,12,00,000
	TOTAL		178969,81,00,000	*299549,26,00,000*	478519,07,00,000

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 2004

No. 21 OF 2004

[*3rd September*, 2004.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the services of the financial year 2004-05 for the purposes of Railways.

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

Short title.

1. This Act may be called the Appropriation (Railways) No. 3 Act, 2004.

Issue of Rs. 81166,07,11,000 out of the Consolidated Fund of India for the financial year 2004-05.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Railways) Vote on Account No. 2 Act, 2004] to the sum of eighty-one thousand one hundred sixty-six crores, seven lakhs and eleven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2004-05, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	75,05,00,000	..	75,05,00,000
2	Miscellaneous Expenditure (General)	254,00,00,000	..	254,00,00,000
3	General Superintendence and Services on Railways	1749,14,50,000	*1,00,000*	1749,15,50,000
4	Repairs and Maintenance of Permanent Way and Works..	3252,97,94,000	*2,10,000*	3253,00,04,000
5	Repairs and Maintenance of Motive Power	1669,19,65,000	*50,000*	1669,20,15,000
6	Repairs and Maintenance of Carriages and Wagons	3460,62,34,000	..	3460,62,34,000
7	Repairs and Maintenance of Plant and Equipment	1866,15,67,000	..	1866,15,67,000
8	Operating Expenses — Rolling Stock and Equipment	2834,22,21,000	..	2834,22,21,000
9	Operating Expenses — Traffic	7122,01,28,000	..	7122,01,28,000
10	Operating Expenses — Fuel....	8276,42,74,000	..	8276,42,74,000
11	Staff Welfare and Amenities....	1379,83,85,000	*2,95,000*	1379,86,80,000
12	Miscellaneous Working Expenses	1712,47,00,000	*35,82,09,000*	1748,29,09,000
13	Provident Fund, Pension and Other Retirement Benefits.....	6459,53,42,000	*66,04,000*	6460,19,46,000
14	Appropriation to Funds	10140,00,00,000	..	10140,00,00,000
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortization of Over-Capitalisation	3652,74,00,000	..	3652,74,00,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue	35,00,00,000	..	35,00,00,000
	Other Expenditure			
	Capital	19875,92,83,000	*8,00,00,000*	19883,92,83,000
	Railway Funds.....	3519,30,00,000	*1,00,00,000*	3520,30,00,000
	Railway Safety Fund	401,00,00,000	..	401,00,00,000
	Special Railway Safety Fund....	3383,90,00,000	*1,00,00,000*	3384,90,00,000
	TOTAL	81119,52,43,000	*46,54,68,000*	81166,07,11,000

THE APPROPRIATION (No. 3) ACT, 2004

No. 22 OF 2004

[3*rd September*, 2004.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the services of the financial year 2004-05.

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

1. This Act may be called the Appropriation (No. 3) Act, 2004. **Short title.**

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Vote on Account) No. 2 Act, 2004] to the sum of eight lakh sixty-one thousand six hundred and seventy-eight crores and forty-six lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2004-05 in respect of the services specified in column 2 of the Schedule. **Issue of Rs. 861678,46,00,000 out of the Consolidated Fund of India for the year 2004-05.**

20 of 2004.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. **Appropriation.**

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 9th June, 2004 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time. **Construction of references to Ministries and Departments in the Schedule.**

THE SCHEDULE
(*See* sections 2, 3 and 4)

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	Department of Agriculture and Cooperation	Revenue	2782,77,00,000	..	2782,77,00,000
		Capital	94,73,00,000	*136,50,00,000*	231,23,00,000
2	Department of Agricultural Research and Education	Revenue	1753,31,00,000	..	1753,31,00,000
3	Department of Animal Husbandry and Dairying	Revenue	712,77,00,000	..	712,77,00,000
		Capital	13,91,00,000	..	13,91,00,000
4	Ministry of Agro and Rural Industries	Revenue	860,02,00,000	..	860,02,00,000
		Capital	1,61,00,000	..	1,61,00,000
5	Atomic Energy	Revenue	1811,39,00,000	*20,00,000*	1811,59,00,000
		Capital	1531,18,00,000	..	1531,18,00,000
6	Nuclear Power Schemes	Revenue	1313,01,00,000	..	1313,01,00,000
		Capital	2257,62,00,000	..	2257,62,00,000
7	Department of Chemicals and Petrochemicals	Revenue	82,72,00,000	..	82,72,00,000
		Capital	41,67,00,000	..	41,67,00,000
8	Department of Fertilisers	Revenue	13162,19,00,000	*1,00,000*	13162,20,00,000
		Capital	131,97,00,000	..	131,97,00,000
9	Ministry of Civil Aviation	Revenue	242,09,00,000	..	242,09,00,000
		Capital	45,05,00,000	..	45,05,00,000
10	Department of Coal	Revenue	319,82,00,000	..	319,82,00,000
		Capital	128,50,00,000	..	128,50,00,000
11	Department of Mines	Revenue	476,63,00,000	*10,00,000*	476,73,00,000
		Capital	72,27,00,000	..	72,27,00,000
12	Department of Commerce	Revenue	1812,93,00,000	*40,00,000*	1813,33,00,000
		Capital	526,00,00,000	..	526,00,00,000
13	Department of Industrial Policy and Promotion	Revenue	581,30,00,000	*25,00,000*	581,55,00,000
		Capital	19,10,00,000	..	19,10,00,000
14	Department of Posts	Revenue	6030,35,00,000	*2,00,000*	6030,37,00,000
		Capital	178,74,00,000	..	178,74,00,000
15	Department of Telecommunications	Revenue	2331,24,00,000	..	2331,24,00,000
		Capital	509,00,00,000	..	509,00,00,000
16	Department of Information Technology	Revenue	737,00,00,000	..	737,00,00,000
		Capital	49,50,00,000	..	49,50,00,000
17	Ministry of Company Affairs	Revenue	54,50,00,000	..	54,50,00,000
		Capital	3,00,00,000	..	3,00,00,000
18	Department of Consumer Affairs	Revenue	41,34,00,000	..	41,34,00,000
		Capital	9,46,00,000	..	9,46,00,000
19	Department of Food and Public Distribution	Revenue	26628,59,00,000	*2,00,000*	26628,61,00,000
		Capital	472,22,00,000	..	472,22,00,000
20	Ministry of Culture	Revenue	667,33,00,000	..	667,33,00,000
		Capital	45,50,00,000	..	45,50,00,000
21	Ministry of Defence	Revenue	5612,28,00,000	*26,00,000*	5612,54,00,000
		Capital	435,82,00,000	..	435,82,00,000
22	Defence Pensions	Revenue	11249,74,00,000	*26,00,000*	11250,00,00,000
23	Defence Services — Army	Revenue	28629,07,00,000	*13,92,00,000*	28642,99,00,000
24	Defence Services — Navy	Revenue	5375,20,00,000	*2,43,00,000*	5377,63,00,000
25	Defence Services — Air Force	Revenue	8645,57,00,000	*1,23,00,000*	8646,80,00,000
26	Defence Ordnance Factories	Revenue	943,54,00,000	*1,20,00,000*	944,74,00,000
27	Defence Services — Research and Development	Revenue	2352,94,00,000	*22,00,000*	2353,16,00,000
28	Capital Outlay on Defence Services	Capital	33472,99,00,000	*9,86,00,000*	33482,85,00,000
29	Ministry of Development of North Eastern Region	Revenue	1038,56,00,000	..	1038,56,00,000
		Capital	57,64,00,000	*98,50,00,000*	156,14,00,000
30	Ministry of Environment and Forests	Revenue	1284,46,00,000	..	1284,46,00,000
		Capital	16,75,00,000	..	16,75,00,000
31	Ministry of External Affairs	Revenue	3264,03,00,000	*3,00,000*	3264,06,00,000
		Capital	376,63,00,000	..	376,63,00,000
32	Department of Economic Affairs	Revenue	2561,16,00,000	..	2561,16,00,000
		Capital	1542,76,00,000	..	1542,76,00,000
33	Currency, Coinage and Stamps	Revenue	933,82,00,000	*63,00,000*	934,45,00,000
		Capital	491,50,00,000	..	491,50,00,000
34	Payments to Financial Institutions	Revenue	3515,41,00,000	..	3515,41,00,000
		Capital	9209,13,00,000	..	9209,13,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
	CHARGED.—*Interest Payments*	Revenue	..	*133499,86,00,000*	133499,86,00,000
36	Transfers to State and Union territory Governments	Revenue	26809,55,00,000	*16620,00,00,000*	43429,55,00,000
		Capital	..	*26767,92,00,000*	26767,92,00,000
37	Loans to Government Servants, etc.	Capital	600,00,00,000	..	600,00,00,000
	CHARGED.—*Repayment of Debt*	Capital	..	*342119,51,00,000*	342119,51,00,000
39	Department of Expenditure	Revenue	26,62,00,000	..	26,62,00,000
40	Pensions	Revenue	4697,96,00,000	*13,84,00,000*	4711,80,00,000
41	Indian Audit and Accounts Department	Revenue	1058,54,00,000	*31,64,00,000*	1090,18,00,000
		Capital	11,00,00,000	..	11,00,00,000
42	Department of Revenue	Revenue	391,62,00,000	*2,00,000*	391,64,00,000
		Capital	5,05,00,000	..	5,05,00,000
43	Direct Taxes	Revenue	1145,96,00,000	*2,00,000*	1145,98,00,000
		Capital	102,00,00,000	..	102,00,00,000
44	Indirect Taxes	Revenue	1262,10,00,000	*1,00,00,000*	1263,10,00,000
		Capital	198,83,00,000	..	198,83,00,000
45	Department of Disinvestment	Revenue	55,00,00,000	..	55,00,00,000
46	Ministry of Food Processing Industries	Revenue	115,68,00,000	..	115,68,00,000
47	Department of Health	Revenue	2747,42,00,000	..	2747,42,00,000
		Capital	355,70,00,000	..	355,70,00,000
48	Department of Ayurveda, Yoga and Naturopathy	Revenue	225,22,00,000	..	225,22,00,000
	Unani, Siddha and Homoeopathy (AYUSH)	Capital	51,00,000	..	51,00,000
49	Department of Family Welfare	Revenue	6696,37,00,000	..	6696,37,00,000
50	Department of Heavy Industry	Revenue	159,87,00,000	..	159,87,00,000
		Capital	471,13,00,000	..	471,13,00,000
51	Department of Public Enterprises	Revenue	32,65,00,000	..	32,65,00,000
52	Ministry of Home Affairs	Revenue	707,21,00,000	*5,00,000*	707,26,00,000
		Capital	28,05,00,000	..	28,05,00,000
53	Cabinet	Revenue	163,04,00,000	*6,00,000*	163,10,00,000
		Capital	1,00,00,000	..	1,00,00,000
54	Police	Revenue	10908,40,00,000	*3,30,00,000*	10911,70,00,000
		Capital	1501,95,00,000	*17,35,00,000*	1519,30,00,000
55	Other Expenditure of the Ministry of Home Affairs	Revenue	756,38,00,000	*2,00,000*	756,40,00,000
56	Transfers to Union territory Governments	Revenue	607,03,00,000	..	607,03,00,000
		Capital	408,97,00,000	..	408,97,00,000
57	Department of Elementary Education and Literacy	Revenue	6004,68,00,000	..	6004,68,00,000
58	Department of Secondary Education and Higher Education	Revenue	5057,38,00,000	..	5057,38,00,000
		Capital	1,00,000	..	1,00,000
59	Department of Women and Child Development	Revenue	2454,19,00,000	..	2454,19,00,000
60	Ministry of Information and Broadcasting	Revenue	1263,35,00,000	*3,00,000*	1263,38,00,000
		Capital	250,86,00,000	..	250,86,00,000
61	Ministry of Labour and Employment	Revenue	1045,71,00,000	*2,00,000*	1045,73,00,000
		Capital	6,00,000	..	6,00,000
62	Election Commission	Revenue	11,50,00,000	..	11,50,00,000
63	Law and Justice	Revenue	1361,70,00,000	..	1361,70,00,000
		Capital	1,02,00,000	..	1,02,00,000
	CHARGED.—*Supreme Court of India*	Revenue	..	*34,68,00,000*	34,68,00,000
65	Ministry of Non-Conventional Energy Sources	Revenue	509,23,00,000	..	509,23,00,000
		Capital	96,04,00,000	..	96,04,00,000
66	Ministry of Non Resident Indians Affairs	Revenue	6,00,00,000	..	6,00,00,000
		Capital	1,00,00,000	..	1,00,00,000
67	Ministry of Panchayati Raj	Revenue	31,04,00,000	..	31,04,00,000
68	Department of Ocean Development	Revenue	229,08,00,000	..	229,08,00,000
		Capital	1,00,00,000	..	1,00,00,000
69	Ministry of Parliamentary Affairs	Revenue	5,89,00,000	..	5,89,00,000
70	Ministry of Personnel, Public Grievances and Pensions	Revenue	251,72,00,000	*8,00,000*	251,80,00,000
		Capital	7,15,00,000	*9,00,00,000*	16,15,00,000
71	Ministry of Petroleum and Natural Gas	Revenue	3573,42,00,000	..	3573,42,00,000
72	Ministry of Planning	Revenue	6446,88,00,000	..	6446,88,00,000
		Capital	1823,00,00,000	*1861,00,00,000*	3684,00,00,000
73	Ministry of Power	Revenue	2103,87,00,000	..	2103,87,00,000
		Capital	2637,60,00,000	..	2637,60,00,000

1	2		3		
No. of Vote	Services and purposes		Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
	CHARGED.—*Staff, Household and Allowances of the President*	Revenue	..	*15,08,00,000*	15,08,00,000
75	Lok Sabha	Revenue	202,80,00,000	*40,00,000*	203,20,00,000
76	Rajya Sabha	Revenue	89,91,00,000	*20,00,000*	90,11,00,000
	CHARGED.—*Union Public Service Commission*	Revenue	..	*52,00,00,000*	52,00,00,000
78	Secretariat of the Vice-President	Revenue	3,11,00,000	..	3,11,00,000
79	Ministry of Road Transport and Highways	Revenue	5375,75,00,000	*40,00,000*	5376,15,00,000
		Capital	7232,95,00,000	*5,40,00,000*	7238,35,00,000
80	Department of Rural Development	Revenue	13598,96,00,000	..	13598,96,00,000
		Capital	5,00,00,000	..	5,00,00,000
81	Department of Land Resources	Revenue	1264,48,00,000	..	1264,48,00,000
82	Department of Drinking Water Supply	Revenue	3301,39,00,000	..	3301,39,00,000
83	Department of Science and Technology	Revenue	1219,51,00,000	*2,00,000*	1219,53,00,000
		Capital	70,70,00,000	..	70,70,00,000
84	Department of Scientific and Industrial Research	Revenue	1295,90,00,000	..	1295,90,00,000
		Capital	4,10,00,000	..	4,10,00,000
85	Department of Biotechnology	Revenue	323,45,00,000	..	323,45,00,000
86	Ministry of Shipping	Revenue	570,55,00,000	..	570,55,00,000
		Capital	307,63,00,000	*20,00,00,000*	327,63,00,000
87	Ministry of Small Scale Industries	Revenue	399,40,00,000	..	399,40,00,000
		Capital	15,00,00,000	..	15,00,00,000
88	Ministry of Social Justice and Empowerment	Revenue	1377,26,00,000	..	1377,26,00,000
		Capital	179,75,00,000	..	179,75,00,000
89	Department of Space	Revenue	2166,94,00,000	*38,00,000*	2167,32,00,000
		Capital	564,34,00,000	*35,00,000*	564,69,00,000
90	Ministry of Statistics and Programme Implementation	Revenue	1834,87,00,000	..	1834,87,00,000
		Capital	20,84,00,000	..	20,84,00,000
91	Ministry of Steel	Revenue	91,65,00,000	..	91,65,00,000
		Capital	88,89,00,000	..	88,89,00,000
92	Ministry of Textiles	Revenue	1325,93,00,000	..	1325,93,00,000
		Capital	454,68,00,000	*70,00,000*	455,38,00,000
93	Ministry of Tourism	Revenue	227,24,00,000	..	227,24,00,000
		Capital	314,50,00,000	..	314,50,00,000
94	Ministry of Tribal Affairs	Revenue	138,32,00,000	*970,43,00,000*	1108,75,00,000
		Capital	50,26,00,000	..	50,26,00,000
95	Andaman and Nicobar Islands	Revenue	906,98,00,000	*1,00,000*	906,99,00,000
		Capital	208,32,00,000	..	208,32,00,000
96	Chandigarh	Revenue	902,43,00,000	*30,93,00,000*	933,36,00,000
		Capital	152,35,00,000	*25,00,000*	152,60,00,000
97	Dadra and Nagar Haveli	Revenue	453,82,00,000	..	453,82,00,000
		Capital	35,49,00,000	..	35,49,00,000
98	Daman and Diu	Revenue	247,50,00,000	..	247,50,00,000
		Capital	29,80,00,000	..	29,80,00,000
99	Lakshadweep	Revenue	218,66,00,000	..	218,66,00,000
		Capital	38,03,00,000	..	38,03,00,000
100	Department of Urban Development	Revenue	954,35,00,000	*22,06,00,000*	976,41,00,000
		Capital	835,92,00,000	*9,00,00,000*	844,92,00,000
101	Public Works	Revenue	688,40,00,000	*1,00,00,000*	689,40,00,000
		Capital	240,49,00,000	*1,00,00,000*	241,49,00,000
102	Stationery and Printing	Revenue	147,05,00,000	..	147,05,00,000
		Capital	20,00,000	..	20,00,000
103	Ministry of Urban Employment and Poverty Alleviation	Revenue	530,13,00,000	..	530,13,00,000
		Capital	311,55,00,000	..	311,55,00,000
104	Ministry of Water Resources	Revenue	793,38,00,000	..	793,38,00,000
		Capital	57,48,00,000	*3,50,00,000*	60,98,00,000
105	Ministry of Youth Affairs and Sports	Revenue	451,76,00,000	..	451,76,00,000
		Capital	14,24,00,000	..	14,24,00,000
	TOTAL		339299,91,00,000	*522378,55,00,000*	861678,46,00,000

THE FINANCE (No. 2) Act, 2004

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

CHAPTER II

RATES OF INCOME-TAX

CHAPTER III

DIRECT TAXES

Income-tax

SECTIONS

SECTIONS

CHAPTER IV

INDIRECT TAXES

Customs

Customs Tariff

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CHAPTER V

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CHAPTER VI

EDUCATION CESS

SECTIONS

CHAPTER VII

SECURITIES TRANSACTION TAX

CHAPTER VIII

MISCELLANEOUS

THE FINANCE (No. 2) ACT, 2004

No. 23 OF 2004

[10*th September*, 2004.]

An Act to give effect to the financial proposals of the Central Government for the financial year 2004-2005.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Finance (No. 2) Act, 2004.

(*2*) Save as otherwise provided in this Act, sections 2 to 65 shall be deemed to have come into force on the 1st day of April, 2004.

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, 2004, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

43 of 1961.

(*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 fifty 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 fifty 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 fifty 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;

(*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 the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(*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 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:

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph 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, 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 every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such income-tax;

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax.

(*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 rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of two and one-half 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 each case, 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, 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, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten 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 eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax;

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(*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 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, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax;

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(*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 as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein:

Provided that 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 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 111A or section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 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 individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax" where the total income exceeds eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such "advance tax";

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such "advance tax".

(*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 fifty 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 fifty thousand rupees of 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 fifty 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 the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(*11*) The amount of income-tax as specified in sub-sections (*4*) to (*10*) and as increased by a 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", so as to fulfil the commitment of the Government to provide and finance universalised quality basic education, calculated at the rate of two per cent. of such income-tax and surcharge.

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

(*a*) "domestic company" means an Indian 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, 2004, 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 the 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

3. In section 2 of the Income-tax Act, in clause (*24*), after sub-clause (*xii*), the following sub-clause shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 2.

"(*xiii*) any sum referred to in clause (*v*) of sub-section (*2*) of section 56;".

4. In section 7 of the Income-tax Act, after clause (*ii*), the following clause shall be inserted at the end, namely:— Amendment of section 7.

"(*iii*) the contribution made, by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD.".

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

(*a*) in clause (*4*), in sub-clause (*ii*), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

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

(*b*) in clause (*6BB*), for the words, figures and letters "an agreement entered after the 31st day of March, 1997 but before the 1st day of April, 1999 and approved by the Central Government in this behalf", the words, figures and letters "an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, or entered into after the 31st day of March, 2005 and approved by the Central Government in this behalf" shall be substituted with effect from the 1st day of April, 2006;

(*c*) in clause (*15*),—

(*A*) after sub-clause (*iiib*), the following sub-clause shall be inserted with effect from the 1st day of April, 2005, namely:—

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

(*B*) in sub-clause (*iv*), in item (*fa*), after the words "by a scheduled bank", the words, figures and letters "before the 1st day of April, 2005" shall be inserted with effect from the 1st day of April, 2006;

(*d*) in clause (*15A*), before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

"Provided that nothing contained in this clause shall apply to any such agreement entered into on or after the 1st day of April, 2005.";

(*e*) after clause (*18*), the following clause shall be inserted with effect from the 1st day of April, 2005, namely:—

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

(*f*) in clause (*23FB*), with effect from the 1st day of October, 2004,—

(*i*) in *Explanation 1*, for clause (*c*), the following clause shall be substituted, namely:—

'(*c*) "venture capital undertaking" means a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 and notified as such in the Official Gazette by the Board for the purposes of this clause;'; 15 of 1992.

(*ii*) *Explanation 2* shall be omitted;

(*g*) in clause (*23G*), before *Explanation 1*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that the income, by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital company, shall be taken into account in computing the book profit and income-tax payable under section 115JB.";

(*h*) after clause (*36*), the following shall be inserted with effect from the 1st day of April, 2005, namely:—

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

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

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

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

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

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

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

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

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

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

(i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than fifty per cent. of the total proceeds of such fund; and

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

Provided that the percentage of equity share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.'.

6. In section 12AA of the Income-tax Act, after sub-section (*2*), the following sub-section shall be inserted at the end, with effect from the 1st day of October, 2004, namely:— Amendment of section 12AA.

"(*3*) Where a trust or an institution has been granted registration under clause (*b*) of sub-section (*1*) and subsequently the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.".

7. In section 17 of the Income-tax Act, in clause (*1*), after sub-clause (*vii*), the following sub-clause shall be inserted, namely:— Amendment of section 17.

"(*viii*) the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;".

8. In section 32 of the Income-tax Act, in sub-section (*1*), in clause (*iia*), in the first proviso, in clause (*B*), for the words "twenty-five per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of April, 2005. Amendment of section 32.

9. In section 33AC of the Income-tax Act, in sub-section (*1*), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 33AC.

"Provided also that no deduction shall be allowed under this section for any assessment year commencing on or after the 1st day of April, 2005.".

10. In section 35AC of the Income-tax Act, for sub-sections (*4*) and (*5*), the following sub-sections shall be substituted with effect from the 1st day of October, 2004, namely:— Amendment of section 35AC.

"(*4*) Where an association or institution is approved by the National Committee under sub-section (*1*), and subsequently—

(*i*) that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted; or

(*ii*) such association or institution, to which approval has been granted, has not furnished to the National Committee, after the end of each financial year, a report in such form and setting forth such particulars and within such time as may be prescribed,

the National Committee may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval:

Provided that a copy of the order withdrawing the approval shall be forwarded by the National Committee to the Assessing Officer having jurisdiction over the concerned association or institution.

(*5*) Where any project or scheme has been notified as an eligible project or scheme under clause (*b*) of the *Explanation,* and subsequently—

(*i*) the National Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which such project or scheme was notified; or

(*ii*) a report in respect of such eligible project or scheme has not been furnished after the end of each financial year, in such form and setting forth such particulars and within such time as may be prescribed,

such notification may be withdrawn in the same manner in which it was issued:

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or local authority, as the case may be:

Provided further that a copy of the notification by which the notification of the eligible project or scheme is withdrawn shall be forwarded to the Assessing Officer having jurisdiction over the concerned association, institution, public sector company or local authority, as the case may be, carrying on such eligible project or scheme.".

Amendment of section 40.

11. In section 40 of the Income-tax Act, in clause *(a),* for sub-clause *(i),* the following shall be substituted with effect from the 1st day of April, 2005, namely:—

'*(i)* any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section *(1)* of section 200:

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section (*1*) of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

Explanation.—For the purposes of this sub-clause,—

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

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

(ia) any interest, commission or brokerage, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section *(1)* of section 200:

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section *(1)* of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

Explanation.—For the purposes of this sub-clause,—

(i) "commission or brokerage" shall have the same meaning as in clause *(i)* of the *Explanation* to section 194H;

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

(iii) "professional services" shall have the same meaning as in clause *(a)* of the *Explanation* to section 194J;

(iv) "work" shall have the same meaning as in *Explanation* III to section 194C;

(ib) any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004;'.

12. In section 48 of the Income-tax Act, after the fourth proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 48.

'Provided also that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.'.

13. In section 56 of the Income-tax Act, in sub-section (*2*), after clause (*iv*), the following clause shall be inserted at the end, with effect from the 1st day of April, 2005, namely:— Amendment of section 56.

'*(v)* where any sum of money exceeding twenty-five thousand rupees is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004, the whole of such sum:

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer.

Explanation.—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) brother or sister of either of the parents of the individual;

(*v*) any lineal ascendant or descendant of the individual;

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses *(ii)* to *(vi)*.'.

14. In section 71 of the Income-tax Act, after sub-section (*2*), the following sub-section shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 71.

'(*2A*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.'.

Insertion of new section 80CCD.

Deduction in respect of contribution to pension scheme of Central Government.

15. After section 80CCC of the Income-tax Act, the following section shall be inserted, namely:—

'80CCD. (*1*) Where an assessee, being an individual employed by the Central Government on or after the 1st day of January, 2004, has in the previous year paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited as does not exceed ten per cent. of his salary in the previous year.

(*2*) Where, in the case of an assessee referred to in sub-section (*1*), the Central Government makes any contribution to his account referred to in that sub-section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government as does not exceed ten per cent. of his salary in the previous year.

(*3*) Where any amount standing to the credit of the assessee in his account referred to in sub-section (*1*), in respect of which a deduction has been allowed under that sub-section or sub-section (*2*), together with the amount accrued thereon, if any, is received by the assessee or his nominee, in whole or in part, in any previous year,—

(*a*) on account of closure or his opting out of the pension scheme referred to in sub-section (*1*); or

(*b*) as pension received from the annuity plan purchased or taken on such closure or opting out,

the whole of the amount referred to in clause (*a*) or clause (*b*) shall be deemed to be the income of the assessee or his nominee, as the case may be, in the previous year in which such amount is received, and shall accordingly be charged to tax as income of that previous year.

(*4*) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (*1*), no rebate with reference to such amount shall be allowed under section 88.

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

Amendment of section 80DD.

16. In section 80DD of the Income-tax Act, in the *Explanation*, with effect from the 1st day of April, 2005,—

(*a*) in clause (*c*), after the figures "1995", occurring at the end, the words, brackets, letters and figures 'and includes "autism", "cerebral palsy" and "multiple disability" referred to in clauses (*a*), (*c*) and (*h*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999' shall be inserted; 44 of 1999.

(*b*) in clause (*e*), after the figures "1995", occurring at the end, the words, brackets, letters and figures 'or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (*a*), (*c*), (*h*), (*j*) and (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999' shall be inserted; 44 of 1999.

(*c*) in clause (*f*), after the figures "1995", occurring at the end, the words, brackets, letter and figures "or clause (*j*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999" shall be inserted; 44 of 1999.

(*d*) for clause (*g*), the following clause shall be substituted, namely:—

'(*g*) "person with severe disability" means—

(*i*) a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section (*4*) of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or

1 of 1996.

(*ii*) a person with severe disability referred to in clause (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;'.

44 of 1999.

17. In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 2005,— Amendment of section 80-IA.

(*a*) in sub-section (*2*), after the words "generates power or commences transmission or distribution of power", the words "or undertakes substantial renovation and modernisation of the existing transmission or distribution lines" shall be inserted;

(*b*) in sub-section (*3*),—

(*A*) in the opening portion, for the words, brackets and figures "undertaking referred to in clause (*iv*)", the words, brackets and figures "undertaking referred to in clause (*ii*) or clause (*iv*)" shall be substituted;

(*B*) after clause (*ii*) and before *Explanation 1*, the following proviso shall be inserted, namely:—

"Provided that nothing contained in this sub-section shall apply in the case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board referred to in clause (*7*) of section 2 of the Electricity Act, 2003, whether or not such transfer is in pursuance of the splitting up or reconstruction or reorganisation of the Board under Part XIII of that Act.";

36 of 2003.

(*c*) in sub-section (*4*),—

(*A*) in clause (*ii*), for the figures, letters and words "31st day of March, 2004", the figures, letters and words "31st day of March, 2005" shall be substituted;

(*B*) in clause (*iv*), after sub-clause (*b*), the following shall be inserted, namely:—

'(*c*) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on the 31st day of March, 2006.

Explanation.—For the purposes of this sub-clause, "substantial renovation and modernisation" means an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent. of the book value of such plant and machinery as on the 1st day of April, 2004.'.

18. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2005,— Amendment of section 80-IB.

(*a*) in sub-section (*1*), for the brackets, figures, word and letter "(*11*) and (*11A*)", the brackets, figures, letters and word "(*11*), (*11A*) and (*11B*)" shall be substituted;

(*b*) in sub-section (*4*), after the third proviso, the following provisos shall be inserted, namely:—

'Provided also that in the case of an industrial undertaking in the State of Jammu and Kashmir, the provisions of the first proviso shall have effect as if for the figures, letters and words "31st day of March, 2004", the figures, letters and words "31st day of March, 2005" had been substituted:

Provided also that no deduction under this sub-section shall be allowed to an industrial undertaking in the State of Jammu and Kashmir which is engaged in the manufacture or production of any article or thing specified in Part C of the Thirteenth Schedule.';

(*c*) in sub-section (*8A*), in clause (*iii*), for the figures, letters and words "1st day of April, 2004", the figures, letters and words "1st day of April, 2005" shall be substituted;

(*d*) for sub-section (*10*), the following shall be substituted, namely:—

"(*10*) The amount of deduction in the case of an undertaking developing and building housing projects approved before the 31st day of March, 2007 by a local authority shall be hundred per cent. of the profits derived in the previous year relevant to any assessment year from such housing project if,—

(*a*) such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 and completes such construction,—

(*i*) in a case where a housing project has been approved by the local authority before the 1st day of April, 2004, on or before the 31st day of March, 2008;

(*ii*) in a case where a housing project has been, or, is approved by the local authority on or after the 1st day of April, 2004, within four years from the end of the financial year in which the housing project is approved by the local authority.

Explanation.—For the purposes of this clause,—

(*i*) in a case where the approval in respect of the housing project is obtained more than once, such housing project shall be deemed to have been approved on the date on which the building plan of such housing project is first approved by the local authority;

(*ii*) the date of completion of construction of the housing project shall be taken to be the date on which the completion certificate in respect of such housing project is issued by the local authority;

(*b*) the project is on the size of a plot of land which has a minimum area of one acre:

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to a housing project carried out in accordance with a scheme framed by the Central Government or a State Goverment for reconstruction or redevelopment of existing buildings in areas declared to be slum areas under any law for the time being in force and such scheme is notified by the Board in this behalf;

(*c*) the residential unit has a maximum built-up area of one thousand square feet where such residential unit is situated within the city of Delhi or Mumbai or within twenty-five kilometres from the municipal limits of these cities and one thousand and five hundred square feet at any other place; and

(*d*) the built-up area of the shops and other commercial establishments included in the housing project does not exceed five per cent. of the aggregate built-up area of the housing project or two thousand square feet, whichever is less.";

(*e*) in sub-section (*11A*), for the words "an undertaking deriving profit from", the words "an undertaking deriving profit from the business of processing, preservation and packaging of fruits or vegetables or from" shall be substituted;

(*f*) after sub-section (*11A*), the following sub-section shall be inserted, namely:—

"(*11B*) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area shall be hundred per cent. of the profits and gains of such business for a period of five consecutive assessment years, beginning with the initial assessment year, if—

(*i*) such hospital is constructed at any time during the period beginning on the 1st day of October, 2004 and ending on the 31st day of March, 2008;

(*ii*) the hospital has at least one hundred beds for patients;

(*iii*) the construction of the hospital is in accordance with the regulations, for the time being in force, of the local authority; and

(*iv*) the assessee furnishes alongwith the return of income, the report of audit in such form and containing such particulars as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed.

Explanation.—For the purposes of this sub-section, a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the concerned local authority.";

(*g*) in sub-section (*14*),—

(*A*) clauses (*a*) and (*aa*) shall be re-lettered as clauses (*aa*) and (*ab*) respectively, and before clause (*aa*) as so re-lettered, the following clause shall be inserted, namely:—

'(*a*) "built-up area" means the inner measurements of the residential unit at the floor level, including the projections and balconies, as increased by the thickness of the walls but does not include the common areas shared with other residential units;';

(*B*) in clause (*c*),—

(*I*) in sub-clause (*iv*), after the words "undertaking engaged", the words "in the business of processing, preservation and packaging of fruits or vegetables or" shall be inserted;

(*II*) after sub-clause (*vi*), the following sub-clause shall be inserted, namely:—

"(*vii*) in the case of an undertaking engaged in operating and maintaining a hospital in a rural area, means the assessment year relevant to the previous year in which the undertaking begins to provide medical services;".

Amendment of section 80U.

19. In section 80U of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of April, 2005, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) "disability" shall have the meaning assigned to it in clause (*i*) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and includes "autism", "cerebral palsy" and "multiple disabilities" referred to in clauses (*a*), (*c*) and (*h*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 1 of 1996. 44 of 1999.

(*b*) "medical authority" means the medical authority as referred to in clause (*p*) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (*a*), (*c*), (*h*), (*j*) and (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 1 of 1996. 44 of 1999.

(*c*) "person with disability" means a person referred to in clause (*t*) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or clause (*j*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999; 1 of 1996. 44 of 1999.

(*d*) "person with severe disability" means—

(*i*) a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section (*4*) of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; or 1 of 1996.

(*ii*) a person with severe disability referred to in clause (*o*) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.'. 44 of 1999.

Amendment of section 87.

20. In section 87 of the Income-tax Act, with effect from the 1st day of April, 2005,—

(*a*) in sub-section (*1*), for the words, figures and letters "sections 88, 88A, 88B and 88C", the words, figures and letters "sections 88, 88A, 88B, 88C, 88D and 88E" shall be substituted;

(*b*) in sub-section (*2*), after the words, figures and letter "or section 88C", the words, figures and letters "or section 88D or section 88E" shall be inserted.

Amendment of section 88.

21. In section 88 of the Income-tax Act, in sub-section (*2*), in clause (*xv*), in sub-clause (*c*), after item (*6*), the following item shall be inserted with effect from the 1st day of April, 2005, namely:—

"(*6A*) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or".

Insertion of new section 88D.

22. After section 88C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2005, namely:—

Rebate of income-tax in case of certain individuals.

"88D. An assessee, being an individual resident in India,—

(*a*) whose total income does not exceed one hundred thousand rupees, shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with

which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax;

(*b*) whose total income exceeds one hundred thousand rupees and the income-tax payable on such total income (as computed before allowing the deductions under this Chapter) exceeds the amount by which such total income is in excess of one hundred thousand rupees, shall be entitled to a deduction from the amount of income-tax on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds one hundred thousand rupees.".

Insertion of new section 88E.

23. After section 88D of the Income-tax Act, as so inserted, the following section shall be inserted with effect from the 1st day of April, 2005, namely:—

Rebate in respect of securities transaction tax.

'88E. (*1*) Where the total income of an assessee in a previous year includes any income, chargeable under the head "Profits and gains of business or profession", arising from taxable securities transactions, he shall be entitled to a deduction, from the amount of income-tax on such income arising from such transactions, computed in the manner provided in sub-section (*2*), of an amount equal to the securities transaction tax paid by him in respect of the taxable securities transactions entered into in the course of his business during that previous year:

Provided that no deduction under this sub-section shall be allowed unless the assessee furnishes along with the return of income, evidence of payment of securities transaction tax in the prescribed form:

Provided further that the amount of deduction under this sub-section shall not exceed the amount of income-tax on such income computed in the manner provided in sub-section (*2*).

(*2*) For the purposes of sub-section (*1*), the amount of income-tax on the income arising from the taxable securities transactions, referred to in that sub-section, shall be equal to the amount calculated by applying the average rate of income-tax on such income.

Explanation.—For the purposes of this section, the expressions "taxable securities transaction" and "securities transaction tax" shall have the same meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004.'.

Amendment of section 90.

24. In section 90 of the Income-tax Act, in the *Explanation*, the words and brackets ",where such foreign company has not made the prescribed arrangement for declaration and payment within India, of the dividends (including dividends on preference shares) payable out of its income in India" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1962.

Amendment of section 94.

25. In section 94 of the Income-tax Act, with effect from the 1st day of April, 2005,—

(*a*) in sub-section (*7*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) such person sells or transfers—

(*i*) such securities within a period of three months after such date; or

(*ii*) such unit within a period of nine months after such date;";

(*b*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*8*) Where—

(*a*) any person buys or acquires any units within a period of three months prior to the record date;

(*b*) such person is allotted additional units without any payment on the basis of holding of such units on such date;

(*c*) such person sells or transfers all or any of the units referred to in clause (*a*) within a period of nine months after such date, while continuing to hold all or any of the additional units referred to in clause (*b*),

then, the loss, if any, arising to him on account of such purchase and sale of all or any of such units shall be ignored for the purposes of computing his income chargeable to tax and notwithstanding anything contained in any other provision of this Act, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units referred to in clause (*b*) as are held by him on the date of such sale or transfer.";

(*c*) in the *Explanation*, for clause (*aa*), the following clause shall be substituted, namely:—

'(*aa*) "record date" means such date as may be fixed by—

(*i*) a company for the purposes of entitlement of the holder of the securities to receive dividend; or

(*ii*) a Mutual Fund or the Administrator of the specified undertaking or the specified company as referred to in the *Explanation* to clause (*35*) of section 10, for the purposes of entitlement of the holder of the units to receive income, or additional unit without any consideration, as the case may be;'.

Insertion of new section 111A.

Tax on short-term capital gains in certain cases.

26. After section 111 of the Income-tax Act, the following section shall be inserted, with effect from the 1st day of April, 2005, namely:—

'111A. (*1*) Where the total income of an assessee includes any income chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset, being an equity share in a company or a unit of an equity oriented fund and—

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

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

the tax payable by the assessee on the total income shall be the aggregate of—

(*i*) the amount of income-tax calculated on such short-term capital gains at the rate of ten per cent.; and

(*ii*) the amount of income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee:

Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such short-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such short-term capital gains shall be computed at the rate of ten per cent.

(*2*) Where the gross total income of an assessee includes any short term capital gains referred to in sub-section (*1*), the deduction under Chapter VI-A shall be allowed from the gross total income as reduced by such capital gains.

(*3*) Where the total income of an assessee includes any short-term capital gains referred to in sub-section (*1*), the rebate under section 88 shall be allowed from the income-tax on the total income as reduced by such capital gains.

Explanation.— For the purposes of this section, the expression "equity oriented fund" shall have the meaning assigned to it in the *Explanation* to clause (*38*) of section 10.'.

27. In section 115AD of the Income-tax Act, in sub-section (*1*), in clause (*ii*), the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 115AD.

"Provided that the amount of income-tax calculated on the income by way of short-term capital gains referred to in section 111A shall be at the rate of ten per cent.;".

28. In section 115JB of the Income-tax Act, in the *Explanation*, with effect from the 1st day of April, 2005,— Amendment of section 115JB.

(*a*) in clause (*f*), for the word and figures "section 10", the words, figures, brackets and letter "section 10 [other than the provisions contained in clause (*23G*) thereof]" shall be substituted;

(*b*) in clause (*ii*), for the words and figures "provisions of section 10", the words, figures, brackets and letter "provisions of section 10 [other than the provisions contained in clause (*23G*) thereof]" shall be substituted.

29. In section 115R of the Income-tax Act, in sub-section (*2*),— Amendment of section 115R.

(*a*) for the words "at the rate of twelve and one-half per cent.:" , the following shall be substituted with effect from the 9th day of July, 2004, namely:—

"at the rate of—

(*i*) twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family; and

(*ii*) twenty per cent. on income distributed to any other person:";

(*b*) in the proviso, the words, figures and letters "for a period of one year commencing from the 1st day of April, 2003" shall be omitted.

30. After Chapter XII-F of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2005, namely:— Insertion of new Chapter XII-G.

'CHAPTER XII-G

SPECIAL PROVISIONS RELATING TO INCOME OF SHIPPING COMPANIES

A.—Meaning of certain expressions

115V. In this Chapter, unless the context otherwise requires,— Definitions.

(*a*) "bareboat charter" means hiring of a ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew;

(*b*) "bareboat charter-cum-demise" means a bareboat charter where the ownership of the ship is intended to be transferred after a specified period to the company to whom it has been chartered;

(*c*) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under sub-section (*1*) of section 7 of the Merchant Shipping Act, 1958; 44 of 1958.

(*d*) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(*e*) "fishing vessel" shall have the meaning assigned to it in clause (*12*) of section 3 of the Merchant Shipping Act, 1958; 44 of 1958.

(*f*) "pleasure craft" means a ship of a kind whose primary use is for the purposes of sport or recreation;

(*g*) "qualifying company" means a company referred to in section 115VC;

(*h*) "qualifying ship" means a ship referred to in section 115VD;

(*i*) "seagoing ship" means a ship if it is certified as such by the competent authority of any country;

(*j*) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;

(*k*) "tonnage tax activities" means the activities referred to in sub-sections (*2*) and (*5*) of section 115V-I;

(*l*) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(*m*) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter.

B.—Computation of tonnage income from business of operating qualifying ships

Computation of profits and gains from the business of operating qualifying ships.

115VA. Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of a company, the income from the business of operating qualifying ships, may, at its option, be computed in accordance with the provisions of this Chapter and such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

Operating ships.

115VB. For the purposes of this Chapter, a company shall be regarded as operating a ship if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship has been chartered in by it in an arrangement such as slot charter, space charter or joint charter:

Provided that a company shall not be regarded as the operator of a ship which has been chartered out by it on bareboat charter-cum-demise terms or on bareboat charter terms for a period exceeding three years.

Qualifying company.

115VC. For the purposes of this Chapter, a company is a qualifying company if—

(*a*) it is an Indian company;

(*b*) the place of effective management of the company is in India;

(*c*) it owns at least one qualifying ship; and

(*d*) the main object of the company is to carry on the business of operating ships.

Explanation.—For the purposes of this section, "place of effective management of the company" means—

(*A*) the place where the board of directors of the company or its executive directors, as the case may be, make their decisions; or

(*B*) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

Qualifying ship.

115VD. For the purposes of this Chapter, a ship is a qualifying ship if—

(*a*) it is a sea going ship or vessel of fifteen net tonnage or more;

(*b*) it is a ship registered under the Merchant Shipping Act, 1958, or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958; and 44 of 1958.

(*c*) a valid certificate in respect of such ship indicating its net tonnage is in force,

but does not include—

(*i*) a seagoing ship or vessel if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(*ii*) fishing vessels;

(*iii*) factory ships;

(*iv*) pleasure crafts;

(*v*) harbour and river ferries;

(*vi*) off-shore installations;

(*vii*) dredgers;

(*viii*) a qualifying ship which is used as a fishing vessel for a period of more than thirty days during a previous year.

Manner of computation of income under tonnage tax scheme.

115VE. (*1*) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(*2*) The business of operating qualifying ships giving rise to income referred to in sub-section (*1*) of section 115V-I shall be considered as a separate business (hereafter in this Chapter referred to as the tonnage tax business) distinct from all other activities or business carried on by the company.

(*3*) The profits referred to in sub-section (*1*) shall be computed separately from the profits and gains from any other business.

(*4*) The tonnage tax scheme shall apply only if an option to that effect is made in accordance with the provisions of section 115VP.

(*5*) Where a company engaged in the business of operating qualifying ships is not covered under the tonnage tax scheme or, has not made an option to that effect, as the case may be, the profits and gains of such company from such business shall be computed in accordance with the other provisions of this Act.

Tonnage income.

115VF. Subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section (*1*) of section 115V-I shall not be chargeable to tax.

Computation of tonnage income.

115VG. (*1*) The tonnage income of a tonnage tax company for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of sub-sections (*2*) and (*3*).

(*2*) For the purposes of sub-section (*1*), the tonnage income of each qualifying ship shall be the daily tonnage income of each such ship multiplied by—

(*a*) the number of days in the previous year; or

(*b*) the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year, as the case may be.

(*3*) For the purposes of sub-section (*2*), the daily tonnage income of a qualifying ship having tonnage referred to in column (*1*) of the Table below shall be the amount specified in the corresponding entry in column (*2*) of the Table:

TABLE

Qualifying ship having net tonnage	Amount of daily tonnage income
(1)	(2)
up to 1,000	Rs. 46 for each 100 tons
exceeding 1,000 but not more than 10,000	Rs. 460 *plus* Rs. 35 for each 100 tons exceeding 1,000 tons
exceeding 10,000 but not more than 25,000	Rs. 3,610 *plus* Rs. 28 for each 100 tons exceeding 10,000 tons
exceeding 25,000	Rs. 7,810 *plus* Rs. 19 for each 100 tons exceeding 25,000 tons.

(*4*) For the purposes of this Chapter, the tonnage shall mean the tonnage of a ship indicated in the certificate referred to in section 115VX and includes the deemed tonnage computed in the prescribed manner.

Explanation.—For the purposes of this sub-section, "deemed tonnage" shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel.

(*5*) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and thereafter if such tonnage is not a multiple of hundred, then, if the last figure in that amount is fifty tons or more, the tonnage shall be increased to the next higher tonnage which is a multiple of hundred and if the last figure is less than fifty tons, the tonnage shall be reduced to the next lower tonnage which is a multiple of hundred; and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(*6*) Notwithstanding anything contained in any other provision of this Act, no deduction or set off shall be allowed in computing the tonnage income under this Chapter.

Calculation in case of joint operation, etc.

115VH. (*1*) Where a qualifying ship is operated by two or more companies by way of joint interest in the ship or by way of an agreement for the use of the ship and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

(*2*) Subject to the provisions of sub-section (*1*), where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

Relevant shipping income.

115V-I. (*1*) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means—

(*i*) its profits from core activities referred to in sub-section (*2*);

(*ii*) its profits from incidental activities referred to in sub-section (*5*):

Provided that where the aggregate of all such incomes specified in clause (*ii*) exceeds one-fourth per cent. of the turnover from core activities referred to in sub-section (*2*), such excess shall not form part of the relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act.

(*2*) The core activities of a tonnage tax company shall be—

(*i*) its activities from operating qualifying ships; and

(*ii*) other ship-related activities mentioned as under:—

(*A*) shipping contracts in respect of—

(*i*) earning from pooling arrangements;

(*ii*) contracts of affreightment.

Explanation.—For the purposes of this sub-clause,—

(*a*) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships and sharing earnings or operating profits on the basis of mutually agreed terms;

(*b*) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period;

(*B*) specific shipping trades, being—

(*i*) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;

(*ii*) slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

(*3*) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause (*ii*) of sub-section (*2*) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(*4*) Every notification issued under this Chapter shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(*5*) The incidental activities shall be the activities which are incidental to the core activities and which may be prescribed for the purpose.

(*6*) Where a tonnage tax company operates any ship, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed in accordance with the other provisions of this Act.

(*7*) Where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tonnage tax company, or where any goods or services held for the purposes of any other business carried on by such tonnage tax company are transferred to the tonnage tax business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such income on such reasonable basis as he may deem fit.

Explanation.—For the purposes of this sub-section, "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(*8*) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Chapter, take the amount of income as may reasonably be deemed to have been derived therefrom.

Explanation.—For the purposes of this Chapter, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

Treatment of common costs.

115VJ. (*1*) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(*2*) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purpose of the tonnage tax business and for the other business.

Depreciation.

115VK. (*1*) For the purposes of computing depreciation under clause (*iv*) of section 115VL, the depreciation for the first previous year of the tonnage tax scheme (hereafter in this section referred to as "the first previous year" shall be computed on the written down value of the qualifying ships as specified under sub-section (*2*).

(*2*) The written down value of the block of assets, being ships, as on the first day of the first previous year, shall be divided in the ratio of the book written down value of the qualifying ships (hereafter in this section referred to as the "qualifying assets") and the book written down value of the non-qualifying ships (hereafter in this section referred to as the other assets).

(*3*) The block of qualifying assets as determined under sub-section (*2*) shall constitute a separate block of assets for the purposes of this Chapter.

(*4*) For the purposes of sub-section (*2*), the book written down value of the block of qualifying assets and the block of other assets shall be computed in the following manner, namely:—

(*a*) the book written down value of each qualifying asset and each other asset as on the first day of the previous year and which form part of the block of assets to be divided shall be determined by taking the book written down value of each asset appearing in the books of account as on the last day of the preceding previous year:

Provided that any change in the value of the assets consequent to their revaluation after the date on which the Finance (No. 2) Bill, 2004 receives the assent of the President shall be ignored;

(*b*) the book written down value of all the qualifying assets and other assets shall be aggregated; and

(*c*) the ratio of the aggregate book written down value of the qualifying assets to the aggregate book written down value of the other assets shall be determined.

(*5*) Where an asset forming part of a block of qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets.

Explanation.—For the purposes of this sub-section, appropriate portion of the written down value allocable to the asset, which begins to be used for purposes other than the tonnage tax business, shall be an amount which bears the same proportion to the written down value of the block of qualifying assets as on the first day of the previous year as the book written down value of the asset beginning to be used for purposes other than tonnage tax business bears to the book written down value of all the assets forming the block of qualifying asset.

(*6*) Where an asset forming part of a block of other assets begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset.

Explanation.—For the purposes of this sub-section, appropriate portion of written down value allocable to the asset which begins to be used for the tonnage tax business shall be an amount which bears the same proportion to the written down value of the block of other assets as on the first day of the previous year as the book written down value of the asset beginning to be used for tonnage tax business bears to the total book written down value of all the assets forming the block of other assets.

(*7*) For the purposes of computing depreciation under clause (*iv*) of section 115VL in respect of an asset mentioned in sub-sections (*5*) and (*6*), depreciation computed for the previous year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this Act, depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (*2*) had been brought forward from the preceding previous year.

Explanation 2.—For the purposes of this section, "book written down value" means the written down value as appearing in the books of account.

General exclusion of deduction and set off, etc.

115VL. Notwithstanding anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any previous year (hereafter in this section referred to as the "relevant previous year") in which it is chargeable to tax in accordance with this Chapter—

(*i*) sections 30 to 43B shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant previous years, had been given full effect to for that previous year itself;

(*ii*) no loss referred to in sub-sections (*1*) and (*3*) of section 70 or sub-sections (*1*) and (*2*) of section 71 or sub-section (*1*) of section 72 or sub-section (*1*) of section 72A, in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the previous years when the company is under the tonnage tax scheme;

(*iii*) no deduction shall be allowed under Chapter VI-A in relation to the profits and gains from the business of operating qualifying ships; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant previous years.

Exclusion of loss.

115VM. (*1*) Section 72 shall apply in respect of any loss that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the previous years when the company is under the tonnage tax scheme.

(*2*) The losses referred to in sub-section (*1*) shall not be available for set off against any income other than relevant shipping income in any previous year beginning on or after the company exercises its option under section 115VP.

(*3*) Any apportionment necessary to determine the losses referred to in sub-section (*1*) shall be made on a reasonable basis.

Chargeable gains from transfer of tonnage tax assets.

115VN. Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax in accordance with the provisions of section 45, read with section 50, and the capital gains so arising shall be computed in accordance with the provisions of sections 45 to 51:

Provided that for the purpose of computing such profits or gains, the provisions of section 50 shall have effect as if for the words "written down value of the block of assets", the words "written down value of the block of qualifying assets" had been substituted.

Explanation.—For the purposes of this Chapter, "written down value of the block of qualifying assets" means the written down value computed in accordance with the provisions of sub-section (*2*) of section 115VK.

Exclusion from provisions of section 115JB.

115V-O. The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (*1*) of section 115V-I, shall be excluded from the book profit of the company for the purposes of section 115JB.

C.—Procedure for option of tonnage tax scheme

Method and time of opting for tonnage tax scheme.

115VP. (*1*) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner as may be prescribed, for such scheme.

(*2*) The application under sub-section (*1*) may be made by any existing qualifying company at any time after the 30th day of September, 2004 but before the 1st day of January, 2005 (hereafter referred to as the "initial period"):

Provided that—

(*i*) a company incorporated after the initial period; or

(*ii*) a qualifying company incorporated before the initial period but which becomes a qualifying company for the first time after the initial period,

may make an application within three months of the date of its incorporation or the date on which it became a qualifying company, as the case may be.

(*3*) On receipt of an application for option for tonnage tax scheme under sub-section (*1*), the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he—

(*i*) shall pass an order in writing approving the option for tonnage tax scheme; or

(*ii*) shall, if he is not so satisfied, pass an order in writing refusing to approve the option for tonnage tax scheme,

and a copy of such order shall be sent to the applicant:

Provided that no order under clause (*ii*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(*4*) Every order granting or refusing the approval of the option for tonnage tax scheme under clause (*i*) or clause (*ii*), as the case may be, of sub-section (*3*) shall be passed before the expiry of one month from the end of the month in which the application was received under sub-section (*1*).

(*5*) Where an order granting approval is passed under sub-section (*3*), the provisions of this Chapter shall apply from the assessment year relevant to the previous year in which the option for tonnage tax scheme is exercised.

Period for which tonnage tax option to remain in force.

115VQ. (*1*) An option for tonnage tax scheme, after it has been approved under sub-section (*3*) of section 115VP, shall remain in force for a period of ten years from the date on which such option has been exercised and shall be taken into account from the assessment year relevant to the previous year in which such option is exercised.

(*2*) An option for tonnage tax scheme shall cease to have effect from the assessment year relevant to the previous year in which—

(*a*) the qualifying company ceases to be a qualifying company;

(*b*) a default is made in complying with the provisions contained in section 115VT or section 115VU or section 115VV;

(*c*) the tonnage tax company is excluded from the tonnage tax scheme under section 115VZC;

(*d*) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Chapter may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

Renewal of tonnage tax scheme.

115VR. (*1*) An option for tonnage tax scheme approved under sub-section (*3*) of section 115VP may be renewed within one year from the end of the previous year in which the option ceases to have effect.

(*2*) The provisions of sections 115VP and 115VQ shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

Prohibition to opt for tonnage tax scheme in certain cases.

115VS. A qualifying company, which, on its own, opts out of the tonnage tax scheme or makes a default in complying with the provisions of section 115VT or section 115VU or section 115VV or whose option has been excluded from tonnage tax scheme in pursuance of an order made under sub-section (*1*) of section 115VZC, shall not be eligible to opt for tonnage tax scheme for a period of ten years from the date of opting out or default or order, as the case may be.

D.—Conditions for applicability of tonnage tax scheme

Transfer of profits to Tonnage Tax Reserve Account.

115VT. (*1*) A tonnage tax company shall, subject to and in accordance with the provisions of this section, be required to credit to a reserve account (hereafter in this section referred to as the Tonnage Tax Reserve Account) an amount not less than twenty per cent. of the book profit derived from the activities referred to in clauses (*i*) and (*ii*) of sub-section (*1*) of section 115V-I in each previous year to be utilised in the manner laid down in sub-section (*3*):

Provided that a tonnage tax company may transfer a sum in excess of twenty per cent. of the book profit and such excess sum transferred shall also be utilised in the manner laid down in sub-section (*3*).

Explanation.—For the purposes of this section, "book profit" shall have the same meaning as in the *Explanation* to sub-section (*2*) of section 115JB so far as it relates to the income derived from the activities referred to in clauses (*i*) and (*ii*) of sub-section (*1*) of section 115V-I.

(*2*) Where the company has book profit from the business of operating qualifying ships and book loss from any other sources, and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (*1*), the company shall create the reserves to the extent possible in that previous year and the shortfall, if any, shall be added to the amount of the reserves required to be created for the following previous year and such shortfall shall be deemed to be part of the reserve requirement of that following previous year:

Provided that to the extent the shortfall in creation of reserves during a particular previous year is carried forward to the following previous year under this sub-section, the company shall be considered as having created sufficient reserves for the first mentioned previous year:

Provided further that nothing contained in the first proviso shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive previous years.

(*3*) The amount credited to the Tonnage Tax Reserve Account under sub-section (*1*) shall be utilised by the company before the expiry of a period of eight years next following the previous year in which the amount was credited—

(*a*) for acquiring a new ship for the purposes of the business of the company; and

(*b*) until the acquisition of a new ship, for the purposes of the business of operating qualifying ships other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(*4*) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (*1*),—

(*a*) has been utilised for any purpose other than that referred to in clause (*a*) or clause (*b*) of sub-section (*3*); or

(*b*) has not been utilised for the purpose specified in clause (*a*) of sub-section (*3*); or

(*c*) has been utilised for the purpose of acquiring a new ship as specified in clause (*a*) of sub-section (*3*), but such ship is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the previous year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (*1*) shall be taxable under the other provisions of this Act—

(*i*) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or

(*ii*) in a case referred to in clause (*b*), in the year immediately following the period of eight years specified in sub-section (*3*); or

(*iii*) in a case referred to in clause (*c*), in the year in which the sale or transfer took place:

Provided that the income so taxable under the other provisions of this Act shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(*5*) Notwithstanding anything contained in any other provision of this Chapter, where the amount credited to the Tonnage Tax Reserve Account in accordance with sub-section (*1*) is less than the minimum amount required to be credited under sub-section (*1*), an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section (*1*) shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(*6*) If the reserve required to be created under sub-section (*1*) is not created for any two consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the failure to create the reserve under sub-section (*1*) had occurred.

Explanation.—For the purposes of this section, "new ship" includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

Minimum training requirement for tonnage tax company.

115VU. (*1*) A tonnage tax company, after its option has been approved under sub-section (*3*) of section 115VP, shall comply with the minimum training requirement in respect of trainee officers in accordance with the guidelines framed by the Director-General of Shipping and notified in the Official Gazette by the Central Government.

(*2*) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping along with the return of income under section 139 to the effect that such company has complied with the minimum training requirement in accordance with the guidelines referred to in sub-section (*1*) for the previous year.

(*3*) If the minimum training requirement is not complied with for any five consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the fifth consecutive previous year in which the failure to comply with the minimum training requirement under sub-section (*1*) had occurred.

Limit for charter in of tonnage.

115VV. (*1*) In the case of every company which has opted for tonnage tax scheme, not more than forty-nine per cent. of the net tonnage of the qualifying ships operated by it during any previous year shall be chartered in.

(*2*) The proportion of net tonnage referred to in sub-section (*1*) in respect of a previous year shall be calculated based on the average of net tonnage during that previous year.

(*3*) For the purposes of sub-section (*2*), the average of net tonnage shall be computed in such manner as may be prescribed in consultation with the Director-General of Shipping.

(*4*) Where the net tonnage of ships chartered in exceeds the limit under sub-section (*1*) during any previous year, the total income of such company in relation to that previous year shall be computed as if the option for tonnage tax scheme does not have effect for that previous year.

(*5*) Where the limit under sub-section (*1*) had exceeded in any two consecutive previous years, the option for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the limit had exceeded.

Explanation.—For the purposes of this section, the term "chartered in" shall exclude a ship chartered in by the company on bareboat charter-cum-demise terms.

Maintenance and audit of accounts.

115VW. An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a previous year unless such company—

(*i*) maintains separate books of account in respect of the business of operating qualifying ships; and

(*ii*) furnishes, along with the return of income for that previous year, the report of an accountant, in the prescribed form duly signed and verified by such accountant.

Explanation.—For the purposes of this section, "accountant" shall have the same meaning as in the *Explanation* below sub-section (*2*) of section 288.

Determination of tonnage.

115VX. (*1*) For the purposes of this Chapter,—

(*a*) the tonnage of a ship shall be determined in accordance with the valid certificate indicating its tonnage;

(*b*) "valid certificate" means,—

(*i*) in case of ships registered in India—

(*a*) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958; 44 of 1958.

(*b*) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958; 44 of 1958.

(*ii*) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958 specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship. 44 of 1958.

E.—Amalgamation and demerger of shipping companies

Amalgamation.

115VY. Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company if it is a qualifying company:

Provided that where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under sub-section (*1*) of section 115VP within three months from the date of the approval of the scheme of amalgamation:

Provided further that where the amalgamating companies are tonnage tax companies, the provisions of this Chapter shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force:

Provided also that where one of the amalgamating companies is a qualifying company as on the 1st day of October, 2004 and which has not exercised the option for tonnage tax scheme within the initial period, the provisions of this Chapter shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

115VZ. Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Chapter, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period if it is a qualifying company: Demerger.

Provided that the option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

F.—Miscellaneous

115VZA. (*1*) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Chapter. Effect of temporarily ceasing to operate qualifying ships.

(*2*) Where a qualifying company continues to operate a ship, which temporarily ceases to be a qualifying ship, such ship shall not be considered as a qualifying ship for the purposes of this Chapter.

G.—Provisions of this Chapter not to apply in certain cases

115VZB. (*1*) Subject to the provisions of this Chapter, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme. Avoidance of tax.

(*2*) For the purposes of sub-section (*1*), a transaction or arrangement shall be considered an abuse if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(*i*) a person other than a tonnage tax company; or

(*ii*) a tonnage tax company in respect of its non-tonnage tax activities.

Explanation.—For the purposes of this section, "tax advantage" include—

(*i*) the determination of the allowance for any expense or interest, or the determination of any cost or expense allocated or apportioned, or, as the case may be, which has the effect of reducing the income or increasing the loss, as the case may be, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the previous year in which the transaction was entered into; or

(*ii*) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

115VZC. (*1*) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (*1*) of section 115VZB, the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme: Exclusion from tonnage tax scheme.

Provided that an opportunity shall be given by the Assessing Officer by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme:

Provided further that no order under this sub-section shall be passed without the previous approval of the Chief Commissioner.

(*2*) The provisions of this section shall not apply where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Chapter.

(*3*) Where an order has been passed under sub-section (*1*) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the previous year in which the transaction or arrangement was entered into.'.

Amendment of section 119.

31. In section 119 of the Income-tax Act, in sub-section (*2*), in clause (*a*), after the bracket and words "(whether by way of relaxation of any of the provisions of sections", the figures and letters "115P, 115S," shall be inserted with effect from the 1st day of October, 2004.

Amendment of section 139.

32. In section 139 of the Income-tax Act, in sub-section (*9*), in the *Explanation*, in clause (*c*), in sub-clause (*i*), for the words "deducted at source and", the words, figures and letters "deducted at source before the 1st day of April, 2005 and" shall be substituted with effect from the 1st day of April, 2005.

Amendment of section 139A.

33. In section 139A of the Income-tax Act,—

(*a*) in sub-section (*5A*), the first proviso shall be omitted with effect from the 1st day of April, 2005;

(*b*) in sub-sections (*5C*) and (*5D*), for the word "buyer", the words "buyer or licensee or lessee" shall be substituted with effect from the 1st day of October, 2004.

Insertion of new section 142A.

34. After section 142 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 15th day of November, 1972, namely:—

Estimate by Valuation Officer in certain cases.

'142A. (*1*) For the purposes of making an assessment or re-assessment under this Act, where an estimate of the value of any investment referred to in section 69 or section 69B or the value of any bullion, jewellery or other valuable article referred to in section 69A or section 69B is required to be made, the Assessing Officer may require the Valuation Officer to make an estimate of such value and report the same to him.

(*2*) The Valuation Officer to whom a reference is made under sub-section (*1*) shall, for the purposes of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957. 27 of 1957.

(*3*) On receipt of the report from the Valuation Officer, the Assessing Officer may, after giving the assessee an opportunity of being heard, take into account such report in making such assessment or re-assessment:

Provided that nothing contained in this section shall apply in respect of an assessment made on or before the 30th day of September, 2004, and where such assessment has become final and conclusive on or before that date, except in cases where a reassessment is required to be made in accordance with the provisions of section 153A.

Explanation.—In this section, "Valuation Officer" has the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957.'. 27 of 1957.

Amendment of section 153.

35. In section 153 of the Income-tax Act, in *Explanation 1*, with effect from the 1st day of October, 2004,—

(*a*) in clause (*v*), for the words "that section,", the words "that section, or" shall be substituted;

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

"(*vi*) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (*1*) of section 245Q and ending with the date on which the order rejecting the application is received by the Commissioner under sub-section (*3*) of section 245R, or

(*vii*) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (*1*) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Commissioner under sub-section (*7*) of section 245R,".

36. In section 153B of the Income-tax Act, in sub-section (*1*), in the *Explanation*, with effect from the 1st day of October, 2004,— Amendment of section 153B.

(*a*) in clause (*iv*), for the words "that section,", the words "that section, or" shall be substituted;

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

"(*v*) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (*1*) of section 245Q and ending with the date on which the order rejecting the application is received by the Commissioner under sub-section (*3*) of section 245R, or

(*vi*) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (*1*) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Commissioner under sub-section (*7*) of section 245R,".

37. In section 194C of the Income-tax Act, in sub-section (*3*), for clause (*i*), the following clause shall be substituted with effect from the 1st day of October, 2004, namely:— Amendment of section 194C.

"(*i*) the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor or sub-contractor, if such sum does not exceed twenty thousand rupees:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section (*1*) or, as the case may be, sub-section (*2*) shall be liable to deduct income-tax under this section; or".

38. After section 194L of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2004, namely:— Insertion of new section 194LA.

'194LA. Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax thereon: Payment of compensation on acquisition of certain immovable property.

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees.

Explanation.—For the purposes of this section,—

(*i*) "agricultural land" means agricultural land in India including land situate in any area referred to in items (*a*) and (*b*) of sub-clause (*iii*) of clause (*14*) of section 2;

(*ii*) "immovable property" means any land (other than agricultural land) or any building or part of a building.'.

39. In section 197 of the Income-tax Act, in sub-section (*1*), for the figures and letters "194C, 194D, 194G, 194H, 194-I, 194J, 194K", the figures and letters "194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA" shall be substituted with effect from the 1st day of October, 2004. Amendment of section 197.

Amendment of section 198.

40. In section 198 of the Income-tax Act, for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004.

Amendment of section 199.

41. In section 199 of the Income-tax Act,—

(*a*) in sub-section (*1*), for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004;

(*b*) after sub-section (*2*), the following sub-section shall be inserted at the end with effect from the 1st day of April, 2005, namely:—

"(*3*) Where any deduction is made in accordance with the foregoing provisions of this Chapter on or after the 1st day of April, 2005 and paid to the Central Government, the amount of tax deducted and specified in the statement referred to in section 203AA shall be treated as tax paid on behalf of the persons referred to in sub-section (*1*) or, as the case may be, sub-section (*2*) and credit shall be given to him for the amount so deducted in the assessment made under this Act for the assessment year for which such income is assessable without the production of certificate.".

Amendment of section 200.

42. In section 200 of the Income-tax Act,—

(*a*) in sub-section (*1*), for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004;

(*b*) after sub-section (*2*), the following sub-section shall be inserted with effect from the 1st day of April, 2005, namely:—

"(*3*) Any person deducting any sum on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this Chapter or, as the case may be, any person being an employer referred to in sub-section (*1A*) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.".

Amendment of section 202.

43. In section 202 of the Income-tax Act, for the portion beginning with the word and figures "sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004.

Amendment of section 203.

44. In section 203 of the Income-tax Act,—

(*a*) in sub-section (*1*), for the portion beginning with the words and figures "the provisions of sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004;

(*b*) after sub-section (*2*), the following sub-section shall be inserted at the end with effect from the 1st day of April, 2005, namely:—

"(*3*) Where the tax has been deducted or paid in accordance with the foregoing provisions of this Chapter on or after the 1st day of April, 2005, there shall be no requirement to furnish a certificate referred to in sub-section (*1*) or, as the case may be, sub-section (*2*).".

45. For section 203A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2004, namely:— Substitution of new section for section 203A.

'203A. (*1*) Every person, deducting tax or collecting tax in accordance with the provisions of this Chapter, who has not been allotted a tax deduction account number or, as the case may be, a tax collection account number, shall, within such time as may be prescribed, apply to the Assessing Officer for the allotment of a "tax deduction and collection account number". Tax deduction and collection account number.

(*2*) Where a "tax deduction account number" or, as the case may be, a "tax collection account number" or a "tax deduction and collection account number" has been allotted to a person, such person shall quote such number—

(*a*) in all challans for the payment of any sum in accordance with the provisions of section 200 or sub-section (*3*) of section 206C;

(*b*) in all certificates furnished under section 203 or sub-section (*5*) of section 206C;

(*c*) in all the returns, delivered in accordance with the provisions of section 206 or sub-section (*5A*) or sub-section (*5B*) of section 206C to any income-tax authority; and

(*d*) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.'.

46. After section 203A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2005, namely:— Insertion of new section 203AA.

"203AA. The prescribed income-tax authority or the person authorised by such authority referred to in sub-section (*3*) of section 200, shall, within the prescribed time after the end of each financial year beginning on or after the 1st day of April, 2005 prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid a statement in the prescribed form specifying the amount of tax deducted or paid and such other particulars as may be prescribed.". Furnishing of statement of tax deducted.

47. In section 204 of the Income-tax Act, for the portion beginning with the word and figures "sections 192" and ending with the words and figures "sections 195 to 203", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004. Amendment of section 204.

48. In section 205 of the Income-tax Act, for the portion beginning with the word and figures "sections 192" and ending with the word, figures and letter "section 196D", the words "the foregoing provisions of this Chapter" shall be substituted with effect from the 1st day of October, 2004. Amendment of section 205.

49. In section 206 of the Income-tax Act,— Amendment of section 206.

(*a*) in sub-section (*1*), with effect from the 1st day of October, 2004,—

(*i*) for the words "prescribed income-tax authority", the words "prescribed income-tax authority or such other authority or agency as may be prescribed" shall be substituted;

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

"Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.";

(*b*) in sub-section (*2*), with effect from the 1st day of April, 2005,—

(*i*) for the words "other than the principal officer in the case of every company", the words "other than the prescribed person in the case of every office of the Government and the principal officer in the case of every company" shall be substituted;

(*ii*) for the proviso, the following proviso shall be substituted, namely:—

"Provided that the prescribed person in the case of every office of Government and the principal officer in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter shall, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.".

Amendment of section 206C.

50. In section 206C of the Income-tax Act,—

(*a*) after sub-section (*1B*), the following sub-section shall be inserted with effect from the 1st day of October, 2004, namely:—

'(*1C*) Every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest either in whole or in part in any parking lot or toll plaza or mine or quarry, to another person, other than a public sector company (hereafter in this section referred to as "licensee or lessee") for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

TABLE

Sl. No.	Nature of contract or licence or lease, etc.	Percentage
(1)	(2)	(3)
(*i*)	Parking lot	Two per cent.
(*ii*)	Toll plaza	Two per cent.
(*iii*)	Mining and quarrying	Two per cent.';

(*b*) in sub-section (*2*), after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1C*)" shall be inserted with effect from the 1st day of October, 2004;

(*c*) in sub-section (*3*),—

(*i*) after the word, brackets and figure "sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1C*)" shall be inserted with effect from the 1st day of October, 2004;

(*ii*) the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that the person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the

31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority, or the person authorised by such authority, such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.";

(*d*) in sub-section (*4*), the following proviso shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that where any amount is collected in accordance with the provisions of this section on or after the 1st day of April, 2005 and paid under sub-section (*3*) to the credit of the Central Government, the amount of tax collected and specified in the statement referred to in the second proviso to sub-section (*5*) shall be deemed as payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected in the assessment made under this Act for the assessment year for which such income is assessable without the production of certificate.";

(*e*) in sub-section (*5*),—

(*i*) for the word "buyer", the words "buyer or licensee or lessee" shall be substituted with effect from the 1st day of October, 2004;

(*ii*) the following provisos shall be inserted with effect from the 1st day of April, 2005, namely:—

"Provided that no certificate may be furnished in a case where tax has been collected in accordance with the foregoing provisions of this section on or after the 1st day of April, 2005:

Provided further that the prescribed income-tax authority or the person authorised by such authority referred to in sub-section (*3*) shall, within the prescribed time after the end of each financial year, prepare and deliver to the buyer referred to in sub-section (*1*) or, as the case may be, to the licensee or lessee referred to in sub-section (*1C*), a statement in the prescribed form specifying the amount of tax collected and such other particulars as may be prescribed.";

(*f*) in sub-section (*5A*), with effect from the 1st day of October, 2004,—

(*i*) for the words, figures and letters "prepare half-yearly returns for the period ending on the 30th September and 31st March in each financial year", the words "prepare within the prescribed time after the end of each financial year" shall be substituted;

(*ii*) for the words "prescribed income-tax authority", the words "prescribed income-tax authority or such other authority or agency as may be prescribed" shall be substituted;

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

"Provided that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing such returns with such other authority or agency referred to in this sub-section.";

(*g*) for sub-sections (*5B*) and (*5C*), the following sub-sections shall be substituted with effect from the 1st day of April, 2005, namely:—

"(*5B*) Without prejudice to the provisions of sub-section (*5A*), any person collecting tax, other than in a case where the seller is a company, the Central Government or a State Government, may at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in

the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that where the person collecting tax is a company or the Central Government or a State Government, such person shall, in accordance with the provisions of this section, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(*5C*) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of sub-section (*5A*) and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein.

(*5D*) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (*5B*) is defective, he may intimate the defect to the person collecting tax and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.";

(*h*) in sub-section (*9*), with effect from the 1st day of October, 2004,—

(*i*) for the word "buyer", the words "buyer or licensee or lessee" shall be substituted;

(*ii*) after the word, brackets and figure "sub-section (*1*)", at both the places where they occur, the words, brackets, figure and letter "or sub-section (*1C*)" shall be inserted.

Amendment of section 206CA.

51. In section 206CA of the Income-tax Act, after sub-section (*2*), the following proviso shall be inserted with effect from the 1st day of October, 2004, namely:—

"Provided that the provisions of this section shall not apply on or after the 1st day of October, 2004.".

Amendment of section 245RR.

52. In section 245RR of the Income-tax Act, for the words, brackets, figures and letter "under sub-section (*1*) of section 245R", the words, brackets, figures and letter "under sub-section (*1*) of section 245Q" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1998.

Amendment of section 246A.

53. In section 246A of the Income-tax Act, in sub-section (*1*), in clause (*a*), in the opening portion, for the words "an order against the assessee", the words, brackets, figures and letters "an order passed by a Joint Commissioner under clause (*ii*) of sub-section (*3*) of section 115VP or an order against the assessee" shall be substituted with effect from the 1st day of October, 2004.

Amendment of section 253.

54. In section 253 of the Income-tax Act, in sub-section (*1*), after clause (*b*), the following clause shall be inserted with effect from the 1st day of October, 2004, namely:—

"(*ba*) an order passed by an Assessing Officer under sub-section (*1*) of section 115VZC; or.".

55. After section 271F of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2005, namely:– Insertion of new section 271FA.

"271FA. If a person who is required to furnish an annual information return, as required under sub-section (*1*) of section 285BA, fails to furnish such return within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.". Penalty for failure to furnish annual information return.

56. In section 272A of the Income-tax Act, in sub-section (*2*), after clause (*j*), the following clause shall be inserted with effect from the 1st day of April, 2005, namely:— Amendment of section 272A.

"(*k*) to deliver or cause to be delivered a copy of the statement within the time specified in sub-section (*3*) of section 200 or the proviso to sub-section (*3*) of section 206C,".

57. In section 272B of the Income-tax Act, in sub-section (*2*), after the word, brackets, figure and letter "sub-section (*5A*)", the words, brackets, figure and letter "or sub-section (*5C*)" shall be inserted with effect from the 1st day of April, 2005. Amendment of section 272B.

58. In section 272BBB of the Income-tax Act, in sub-section (*1*), for the words "fails to comply", the words, figures and letters "fails to comply before the 1st day of October, 2004" shall be substituted with effect from the 1st day of October, 2004. Amendment of section 272BBB.

59. In section 273B of the Income-tax Act, for the word, figures and letter "section 271F," the words, figures and letters "section 271F, section 271FA," shall be substituted with effect from the 1st day of April, 2005. Amendment of section 273B.

60. After section 277 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2004, namely:— Insertion of new section 277A.

"277A. If any person (hereafter in this section referred to as the first person) wilfully and with intent to enable any other person (hereafter in this section referred to as the second person) to evade any tax or interest or penalty chargeable and imposable under this Act, makes or causes to be made any entry or statement which is false and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceedings against the first person or the second person, under this Act, the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine. Falsification of books of account or document, etc.

Explanation.—For the purposes of establishing the charge under this section, it shall not be necessary to prove that the second person has actually evaded any tax, penalty or interest chargeable or imposable under this Act.".

61. In section 278B of the Income-tax Act, after sub-section (*2*) and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of October, 2004, namely:— Amendment of section 278B.

"(*3*) Where an offence under this Act has been committed by a person, being a company, and the punishment for such offence is imprisonment and fine, then, without prejudice to the provisions contained in sub-section (*1*) or sub-section (*2*), such company shall be punished with fine and every person, referred to in sub-section (*1*), or the director, manager, secretary or other officer of the company referred to in sub-section (*2*), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.".

Amendment of section 279.

62. In Section 279 of the Income-tax Act, in sub-section (*1*), for the words and figures "section 277 or section 278", the words, figures and letter "section 277, section 277A or section 278" shall be substituted with effect from the 1st day of October, 2004.

Substitution of new section for section 285BA.

63. For section 285BA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2005, namely:—

Obligation to furnish annual information return.

'285BA. (*1*) Any person, being—

(*a*) an assessee; or

(*b*) the prescribed person in the case of an office of Government; or

(*c*) a local authority or other public body or association; or

(*d*) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or 16 of 1908.

(*e*) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988; or 59 of 1988.

(*f*) the Post Master General as referred to in clause (*j*) of section 2 of the Indian Post Office Act, 1898; or 6 of 1898.

(*g*) the Collector referred to in clause (*c*) of section 3 of the Land Acquisition Act, 1894; or 1 of 1894.

(*h*) the recognised stock exchange referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956; or 42 of 1956.

(*i*) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934; or 2 of 1934.

(*j*) a depository referred to in clause (*e*) of sub-section (*1*) of section 2 of the Depositories Act, 1996, 22 of 1996.

who is responsible for registering, or, maintaining books of account or other documents containing a record of any specified financial transaction, under any law for the time being in force, shall furnish an annual information return, in respect of such specified financial transaction which is registered or recorded by him during any financial year beginning on or after the 1st day of April, 2004 and information relating to which is relevant and required for the purposes of this Act, to the prescribed income-tax authority or such other authority or agency as may be prescribed.

(*2*) The annual information return referred to in sub-section (*1*) shall be furnished within the prescribed time after the end of such financial year, in such form and manner (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any computer readable media) as may be prescribed.

(*3*) For the purposes of sub-section (*1*), "specified financial transaction" means any—

(*a*) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or

(*b*) transaction for rendering any service; or

(*c*) transaction under a works contract; or

(*d*) transaction by way of an investment made or an expenditure incurred; or

(*e*) transaction for taking or accepting any loan or deposit,

which may be prescribed:

Provided that the Board may prescribe different values for different transactions in respect of different persons having regard to the nature of such transactions:

Provided further that the value or, as the case may be, the aggregate value of such transactions during a financial year so prescribed shall not be less than fifty thousand rupees.

(*4*) Where the prescribed income-tax authority considers that the annual information return furnished under sub-section (*1*) is defective, he may intimate the defect to the person who has furnished such return and give him an opportunity of rectifying the defect within a perlod of one month from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed income-tax authority may, in his discretion, allow; and if the defect is not rectified within the said period of one month or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to furnish the annual information return.

(*5*) Where a person who is required to furnish an annual information return under sub-section (*1*) has not furnished the same within the prescribed time, the prescribed income-tax authority may serve upon such person a notice requiring him to furnish such return within a period not exceeding sixty days from the date of service of such notice and he shall furnish the annual information return within the time specified in the notice.'.

64. In the Thirteenth Schedule to the Income-tax Act, with effect from the 1st day of April, 2005,— Amendment of Thirteenth Schedule.

(*a*) for the brackets, words, figures and letters "[*See* section 80-IC(*2*)]", the brackets, words, figures and letters "[*See* sections 80-IB(*4*) and 80-IC(*2*)]" shall be substituted;

(*b*) after Part B, the following Part shall be inserted, namely:—

"PART C

FOR THE STATE OF JAMMU AND KASHMIR

S.No.	Article or thing
1.	Cigarettes/cigars of tobacco, manufactured tobacco and substitutes
2.	Distilled/brewed alcoholic drinks
3.	Aerated branded beverages and their concentrates".

Wealth-tax

65. In section 35HA of the Wealth-tax Act, 1957, after sub-section (*2*), the following sub-section shall be inserted with effect from the 1st day of October, 2004, namely:— Amendment of section 35HA of Act 27 of 1957.

"(*3*) Where an offence under this Act has been committed by a person, being a company and such offence is punishable with imprisonment and fine, then, without prejudice to the provisions contained in sub-section (*1*) or sub-section (*2*), such company shall be punished with fine and every person, referred to in sub-section (*1*) or the director, manager, secretary or other officer of the company referred to in sub-section (*2*), shall be liable to be proceeded against and punished in accordance with the provisions of this Act.".

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of section 41.

66. In section 41 of the Customs Act, 1962 (hereinafter referred to as the Customs Act), in sub-section (*1*), the proviso shall be omitted. 52 of 1962.

Insertion of new section 122A. Adjudication Procedure.

67. After section 122 of the Customs Act, the following section shall be inserted, namely:—

"122A. (*1*) The adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires.

(*2*) The adjudicating authority may, if sufficient cause is shown, at any stage of proceeding referred to in sub-section (*1*), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during the proceeding.".

Amendment of section 128.

68. In section 128 of the Customs Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Commissioner (Appeals) may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.".

Amendment of section 129A.

69. In section 129A of the Customs Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for sub-section (*6*), the following sub-sections shall be substituted, namely:—

"(*6*) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,—

(*a*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(*b*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(*c*) where the amount of duty and interest demanded and penalty levied by any officer of customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*).

(*7*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or

(*b*) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees:

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of Customs under this sub-section.".

70. In section 129B of the Customs Act, after sub-section (*1*), the following sub-section shall be inserted, namely:— Amendment of section 129B.

"(*1A*) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.".

71. In section 137 of the Customs Act, after sub-section (*2*), the following sub-section shall be inserted, namely:— Amendment of section 137.

"(*3*) Any offence under this Chapter may, either before or after the institution of prosecution, be compounded by the Chief Commissioner of Customs on payment, by the person accused of the offence to the Central Government, of such compounding amount as may be specified by rules.".

72. In section 142 of the Customs Act, in sub-section (*1*), the following proviso shall be inserted at the end, namely:— Amendment of section 142.

"Provided that where the person (hereinafter referred to as predecessor), by whom any sum payable under this Act including the amount required to be paid to the credit of the Central Government under section 28B is not paid, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all goods, materials, preparations, plants, machineries, vessels, utensils, implements and articles in the custody or possession of the person so succeeding may also be attached and sold by the proper officer, after obtaining written approval from the Commissioner of Customs, for the purposes of recovering the amount so payable by such predecessor at the time of such transfer or otherwise disposal or change.".

73. In section 156 of the Customs Act, in sub-section (*2*), after clause (*g*), the following clause shall be inserted, namely:— Amendment of section 156.

"(*h*) the amount to be paid for compounding under sub-section (*3*) of section 137.".

74. (*1*) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 83/2004-Customs (N.T.), dated the 30th June, 2004, published in the Official Gazette *vide* No.G.S.R. 393(E), dated the 30th June, 2004 (hereinafter referred to as the said notification) shall, for the purposes of hundred per cent. export-oriented undertakings, be deemed to be, and to have always been, for all purposes, in force retrospectively on and from the 11th day of May, 1982 and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority— Validation of certain actions taken by Central Excise Officers.

(*a*) any action taken or anything done by a Central Excise Officer appointed by the said notification as an officer of customs to discharge the duties of an officer of customs in respect of hundred per cent. export-oriented undertakings, on and from the 11th day of May, 1982 to 30th day of June, 2004, shall, for all purposes, be deemed to be, and to have always been, validly taken or done as if the appointment made by the said notification was in force at all material times;

(*b*) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority against the Central Government or the Central Excise Officer appointed as an officer of customs by the said notification for any action taken or anything done in good faith during the discharge of his duties as an officer of customs in respect of hundred per cent. export-oriented undertakings during the period on and from the 11th day of May, 1982 to 30th day of June, 2004, as if the appointment made by the said notification was in force at all material times;

(*c*) recovery made of any amount of duty or interest or penalty or fine or other charges by or under the order or direction of the Central Excise Officer appointed as an officer of customs by the said notification during the period on and from the 11th day of May, 1982 to 30th day of June, 2004 shall be deemed to be valid, and to have always been, for all purposes, as validly and effectively, made as if the appointment made by the said notification was in force at all material times.

(*2*) For the purposes of sub-section (*1*), the Central Board of Excise and Customs shall have and shall be deemed to have always had the power to bring into force the said notification with retrospective effect as if the Central Board of Excise and Customs had the power to bring into force the said notification under section 4 of the Customs Act, 1962, retrospectively, at all material times. 52 of 1962.

(*3*) For the purposes of this section, the designations of the officers of customs and the Central Excise Officers as existed before the commencement of the Finance Act, 1995, shall be deemed to be the corresponding substituted designations as specified in the Tables respectively below section 50 and section 70 of the said Finance Act. 22 of 1995.

Explanation 1.—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 notification had not come retrospectively into force.

Explanation 2.—For the purposes of this section, "hundred per cent. export-oriented undertaking" shall have the meaning assigned to it in clause (*ii*) of *Explanation* 2 to the proviso to clause (*b*) of section 3 of the Central Excise Act, 1944. 1 of 1944.

Customs tariff

Amendment of section 3.

75. In section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in sub-section (*2*), in clause (*ii*), the following amendments shall be made and shall be deemed to have been made on and from the 9th day of July, 2004, namely:— 51 of 1975.

(*a*) in sub-clause (*d*), the word "and", occurring at the end, shall be omitted;

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

"(*dd*) the Education Cess on imported goods referred to in section 94 of the Finance (No. 2) Act, 2004; and".

Amendment of section 9A.

76. In section 9A of the Customs Tariff Act, in sub-section (*8*), for the words "relating to non-levy, short-levy, refunds and appeals", the words "relating to, the date for determination of rate of duty, non-levy, short-levy, refunds, interest, appeals, offences and penalties" shall be substituted.

Amendment of section 9C.

77. In section 9C of the Customs Tariff Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) An appeal under sub-section (*1*) shall be accompanied by a fee of fifteen thousand rupees.

(*1B*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal under sub-section (*1*), for grant of stay or for rectification of mistake or for any other purpose; or

(*b*) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees.".

Amendment of First Schedule.

78. In the First Schedule to the Customs Tariff Act,—

(*i*) in Chapter 11, in tariff items 1108 12 00, 1108 14 00, 1108 19 10 and 1108 19 90, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted;

(*ii*) in Chapter 19, in tariff item 1903 00 00, for the entry in column (4), the entry "50%" shall be substituted;

(*iii*) in Chapter 29, in tariff item 2922 42 20, for the entry in column (2), the entry "--- Monosodium glutamate" shall be substituted;

(*iv*) in Chapter 35, in tariff items 3505 10 10 and 3505 10 90, for the entry in column (4) occurring against each of them, the entry "50%" shall be substituted.

Excise

of 1944.

79. Section 9A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act) shall be re-numbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 9A.

"(*2*) Any offence under this Chapter may, either before or after the institution of prosecution, be compounded by the Chief Commissioner of Central Excise on payment, by the person accused of the offence to the Central Government, of such compounding amount as may be prescribed.".

80. In section 11 of the Central Excise Act, the following proviso shall be inserted at the end, namely:— Amendment of section 11.

"Provided that where the person (hereinafter referred to as predecessor) from whom the duty or any other sums of any kind, as specified in this section, is recoverable or due, transfers or otherwise disposes of his business or trade in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in such business or trade by any other person, all excisable goods, materials, preparations, plants, machineries, vessels, utensils, implements and articles in the custody or possession of the person so succeeding may also be attached and sold by such officer empowered by the Central Board of Excise and Customs, after obtaining written approval from the Commissioner of Central Excise, for the purposes of recovering such duty or other sums recoverable or due from such predecessor at the time of such transfer or otherwise disposal or change."

81. After section 33 of the Central Excise Act, the following section shall be inserted, namely:— Insertion of new section 33A.

"33A. (*1*) The Adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires. Adjudication procedure.

(*2*) The Adjudicating authority may, if sufficient cause is shown, at any stage of proceeding referred to in sub-section (*1*), grant time, from time to time, to the parties or any of them and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during the proceeding.".

82. In section 35 of the Central Excise Act, after sub-section (*1*), the following sub-section shall be inserted, namely:— Amendment of section 35.

"(*1A*) The Commissioner (Appeals) may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.".

83. In section 35B of the Central Excise Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for sub-section (*6*), the following sub-sections shall be substituted, namely:— Amendment of section 35B.

"(*6*) An appeal to the Appellate Tribunal shall be in the prescribed form and

shall be verified in the prescribed manner and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,—

(*a*) where the amount of duty and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(*b*) where the amount of duty and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(*c*) where the amount of duty and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*).

(*7*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or

(*b*) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees:

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of Central Excise under this sub-section.".

Amendment of section 35C.

84. In section 35C of the Central Excise Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.".

Amendment of section 37.

85. In section 37 of the Central Excise Act, in sub-section (*2*),—

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

"(*id*) provide for the amount to be paid for compounding under sub-section (*2*) of section 9A;";

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

"(*xviaa*) provide for credit of service tax leviable under Chapter V of the Finance Act, 1994, paid or payable on taxable services used in, or in relation to, the manufacture of excisable goods;". 32 of 1994.

Amendment of Third Schedule.

86. In the Third Schedule to the Central Excise Act, against serial No. 91, in column (*3*), in the entry, the words "other than monochrome," shall be omitted.

Validation of certain actions taken by officers of customs.

87. (*1*) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 38/2001-Central Excise (N.T.), dated the 26th June, 2001, published in the Official Gazette *vide* No. G.S.R. 467(E), dated the 26th June, 2001 (hereinafter referred to as the principal notification), as amended by the notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No. 32/2002-Central Excise (N.T.), dated the 17th September, 2002, published in the Official Gazette *vide* No. G.S.R. 655(E), dated the 17th September, 2002 (hereinafter referred to as the first amendment) and the notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) No. 1/2003-Central Excise (N.T.), dated the 13th January, 2003,

published in the Official Gazette *vide* No. G.S.R. 27(E), dated the 13th January, 2003 (hereinafter referred to as the second amendment) shall, for the purposes of hundred per cent. export-oriented undertakings, be deemed to be, and to have always been, for all purposes, in force retrospectively on and from the 11th day of May, 1982 and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(*a*) any action taken or anything done by an officer of customs invested with the powers of a Central Excise Officer to discharge the duties of the Central Excise Officer in respect of hundred per cent. export-oriented undertakings, on and from the 11th day of May, 1982 to 13th day of January, 2003, by the first amendment and the second amendment to the principal notification, shall, for all purposes, be deemed to be, and to have always been, validly taken or done as if the investment of powers made by the first amendment and the second amendment to the principal notification were in force at all material times;

(*b*) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority against the Central Government or an officer of customs invested with powers of the Central Excise Officer, by the first amendment and the second amendment to the principal notification, for any action taken or anything done in good faith during the discharge of his duties as the Central Excise Officer in respect of hundred per cent. export-oriented undertakings during the period on and from the 11th day of May, 1982 to 13th day of January, 2003, as if the investment of powers made by the first amendment and the second amendment to the principal notification were in force at all material times;

(*c*) recovery made of any amount of duty or interest or penalty or fine or other charges by or under the order or direction of an officer of customs invested with powers of the Central Excise Officer by the first amendment and the second amendment to the principal notification during the period on and from the 11th day of May, 1982 to 13th day of January, 2003 shall be deemed to be valid, and to have always been, for all purposes, as validly and effectively made as if the investment of powers made by the first amendment and the second amendment to the principal notification were in force at all material times.

(*2*) For the purposes of sub-section (*1*), the Central Board of Excise and Customs shall have and shall be deemed to have always had the powers to bring into force the principal notification, the first amendment and the second amendment with retrospective effect as if the Central Board of Excise and Customs had the powers to bring into force the principal notification, the first amendment and the second amendment under clause (*b*) of section 2 of the Central Excise Act, 1944, retrospectively, at all material times. 1 of 1944.

(*3*) For the purposes of this section, the designations of the officers of customs and the Central Excise Officers as existed before the commencement of the Finance Act, 1995 shall be deemed to be the corresponding substituted designations as specified in the Tables respectively below section 50 and section 70 of the said Finance Act. 22 of 1995.

Explanation 1.—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 principal notification as amended by the first amendment and the second amendment had not come retrospectively into force.

Explanation 2.—For the purposes of this section, "hundred per cent. export-oriented undertaking" shall have the meaning assigned to it in clause (*ii*) of *Explanation* 2 to the proviso to clause (*b*) of section 3 of the Central Excise Act, 1944. 1 of 1944.

88. (*1*) In the CENVAT Credit Rules, 2002 made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, 1944, in rule 3, in sub-rule (*6*), in clause (*b*), the *Explanation* shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in the Second Schedule, on and from the corresponding date mentioned in column (3) of that Schedule and, accordingly, 1 of 1944. Amendment of the CENVAT Credit Rules, 2002.

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 *Explanation* shall be deemed to be, and to have always been, for all purposes, as validly and effectively, taken or done as if the said *Explanation* 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 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.

(*3*) The CENVAT credit shall be allowed of such additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 which has been disallowed but which would not have been disallowed if the amendment made by sub-section (*1*) was in force at all material times. 58 of 1957.

(*4*) Recovery shall be made of such CENVAT credit of additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 which has been availed but which would not have been availed if the amendment made by sub-section (*1*) was in force at all material times and the provisions of CENVAT Credit Rules, 2002 relating to the recovery of CENVAT credit, along with interest, shall apply for the recovery made under this sub-section subject to the modification that the relevant date defined in section 11A of the Central Excise Act, 1944, shall, for the purposes of recovery under this sub-section, be deemed to be the date on which the Finance (No. 2) Bill, 2004 receives the assent of the President. 58 of 1957. 1 of 1944.

Explanation 1.—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.

Explanation 2.—For the purposes of this section, the expression "CENVAT credit" has the meaning assigned to it in the CENVAT Credit Rules, 2002.

Central Excise Tariff

Amendment of First Schedule to Act 5 of 1986.

89. In the First Schedule to the Central Excise Tariff Act, 1985,—

(*i*) in Chapter 50, in sub-heading Nos. 5004.11, 5004.90, 5005.10, 5005.20 and 5005.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(*ii*) in Section XV, after NOTE 9, the following NOTE shall be inserted, namely:—

"10. In relation to the products of this Section, the process of drawing or redrawing a rod, wire or any other similar article, into wire shall amount to 'manufacture'.";

(*iii*) in Chapter 90, in sub-heading No. 9001.10, for the entry in column (4), the entry "8%" shall be substituted;

(*iv*) in Chapter 95, in sub-heading No. 9504.10, for the entry in column (4), the entry "8%" shall be substituted.

CHAPTER V

SERVICE TAX

Amendment of Act 32 of 1994.

90. In the Finance Act, 1994,—

(*a*) in section 65,—

(*i*) after clause (*3*), the following clauses shall be inserted, namely:—

'(*3a*) "aircraft" has the meaning assigned to it in clause (*1*) of section 2 of the Aircraft Act, 1934; 22 of 1934.

(*3b*) "aircraft operator" means any commercial concern which provides the service of transport of goods by aircraft;

(*3c*) "airport" has the meaning assigned to it in clause (*b*) of section 2 of the Airports Authority of India Act, 1994;

of 1994.

(*3d*) "airports authority" means the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994 and also includes any person having the charge of management of an airport or a civil enclave;';

of 1994.

(*ii*) for clause (*12*), the following clause shall be substituted, namely:—

'(*12*) "banking and other financial services" means—

(*a*) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern, namely:—

(*i*) financial leasing services including equipment leasing and hire-purchase;

(*ii*) credit card services;

(*iii*) merchant banking services;

(*iv*) securities and foreign exchange (forex) broking;

(*v*) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services, but does not include cash management;

(*vi*) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy;

(*vii*) provision and transfer of information and data processing; and

(*viii*) other financial services, namely, lending; issue of pay order, demand draft, cheque, letter of credit and bill of exchange; providing bank guarantee, over draft facility, bill discounting facility, safe deposit locker, safe vaults; operation of bank accounts;

(*b*) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause (*a*);';

(*iii*) for clause (*19*), the following clauses shall be substituted, namely:—

'(*19*) "business auxiliary service" means any service in relation to—

(*i*) promotion or marketing or sale of goods produced or provided by or belonging to the client; or

(*ii*) promotion or marketing of service provided by the client; or

(*iii*) any customer care service provided on behalf of the client; or

(*iv*) procurement of goods or services, which are inputs for the client; or

(*v*) production of goods on behalf of the client; or

(*vi*) provision of service on behalf of the client; or

(*vii*) a service incidental or auxiliary to any activity specified in sub-clauses (*i*) to (*vi*), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision,

and includes services as a commission agent, but does not include any information technology service and any activity that amounts to "manufacture" within the meaning of clause (*f*) of section 2 of the Central Excise Act, 1944. 1 of 1944.

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this clause, "information technology service" means any service in relation to designing, developing or maintaining of computer software, or computerised data processing or system networking, or any other service primarily in relation to operation of computer systems;

(*19a*) "business exhibition" means an exhibition,—

(*a*) to market; or

(*b*) to promote; or

(*c*) to advertise; or

(*d*) to showcase,

any product or service, intended for the growth in business of the producer or provider of such product or service, as the case may be;';

(*iv*) after clause (*24*), the following clause shall be inserted, namely:—

'(*24a*) "civil enclave" has the meaning assigned to it in clause (*i*) of section 2 of the Airports Authority of India Act, 1994;'; 55 of 1994.

(*v*) clause (*28*) shall be omitted;

(*vi*) in clause (*29*), for the words "in relation to commissioning or installation", the words "in relation to erection, commissioning or installation" shall be substituted;

(*vii*) after clause (*30*), the following clause shall be inserted, namely:—

'(*30a*) "construction service" means—

(*a*) construction of new building or civil structure or a part thereof; or

(*b*) repair, alteration or restoration of, or similar services in relation to, building or civil structure,

which is—

(*i*) used, or to be used, primarily for; or

(*ii*) occupied, or to be occupied, primarily with; or

(*iii*) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include road, airport, railway, transport terminal, bridge, tunnel, long distance pipeline and dam;';

(*viii*) after clause (*39*), the following clause shall be inserted, namely:—

'(*39a*) "erection, commissioning or installation" means any service provided by a commissioning and installation agency in relation to erection, commissioning or installation of plant, machinery or equipment;';

(*ix*) after clause (*46*), the following clause shall be inserted, namely:—

'(*46a*) "forward contract" has the meaning assigned to it in clause (*c*) of section 2 of the Forward Contracts (Regulation) Act, 1952;';

4 of 1952.

(*x*) after clause (*50*), the following clauses shall be inserted, namely:—

'(*50a*) "goods carriage" has the meaning assigned to it in clause (*14*) of section 2 of the Motor Vehicles Act, 1988;

9 of 1988.

(*50b*) "goods transport agency" means any commercial concern which provides service in relation to transport of goods by road and issues consignment note, by whatever name called;';

(*xi*) after clause (*55*), the following clauses shall be inserted, namely:—

'(*55a*) "intellectual property right" means any right to intangible property, namely, trade marks, designs, patents or any other similar intangible property, under any law for the time being in force, but does not include copyright;

(*55b*) "intellectual property service" means,—

(*a*) transferring, whether permanently or otherwise; or

(*b*) permitting the use or enjoyment of,

any intellectual property right;';

(*xii*) after clause (*75*), the following clauses shall be inserted, namely:—

'(*75a*) "opinion poll" means any service designed to secure information on public opinion regarding social, economic, political or other issues;

(*75b*) "opinion poll agency" means any person engaged in providing any service in relation to opinion poll;';

(*xiii*) after clause (*76*), the following clause shall be inserted, namely:—

'(*76a*) "outdoor caterer" means a caterer engaged in providing services in connection with catering at a place other than his own;';

(*xiv*) after clause (*77*), the following clauses shall be inserted, namely:—

'(*77a*) "pandal or shamiana" means a place specially prepared or arranged for organising an official, social or business function;

(*77b*) "pandal or shamiana contractor" means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana, and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for use therein;';

(*xv*) after clause (*86*), the following clauses shall be inserted, namely:—

'(*86a*) "programme" means any audio or visual matter, live or recorded, which is intended to be disseminated by transmission of electro-magnetic waves through space or through cables intended to be received by the general public either directly or indirectly through the medium of relay stations;

(*86b*) "programme producer" means a commercial concern which produces a programme on behalf of another person;';

(*xvi*) after clause (*89*), the following clauses shall be inserted, namely:—

'(*89a*) "recognised association" has the meaning assigned to it in clause (*j*) of section 2 of the Forward Contracts (Regulation) Act, 1952; 74 of 1952.

(*89b*) "registered association" has the meaning assigned to it in clause (*jj*) of section 2 of the Forward Contracts (Regulation) Act, 1952;'; 74 of 1952.

(*xvii*) for clause (*101*), the following clause shall be substituted, namely:—

'(*101*) "stock-broker" means a person, who has either made an application for registration or is registered as a stock-broker or sub-broker, as the case may be, in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;'; 15 of 1992.

(*xviii*) clause (*103*) shall be omitted;

(*xix*) after clause (*104*), the following clause shall be inserted, namely:—

'(*104a*) "survey and exploration of mineral" means geological, geophysical or other prospecting, surface or sub-surface surveying or map making service, in relation to location or exploration of deposits of mineral, oil or gas;';

(*xx*) in clause (*105*),—

(*a*) in sub-clause (*a*), for the words "to an investor", the words "to any person" shall be substituted;

(*b*) in sub-clause (*g*), after the words "disciplines of engineering", the words "but not in the discipline of computer hardware engineering or computer software engineering" shall be inserted;

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

"(*zm*) to a customer, by a banking company or a financial institution including a non-banking financial company, or any other body corporate or commercial concern, in relation to banking and other financial services;";

(*d*) sub-clause (*zp*) shall be omitted;

(*e*) in sub-clause (*zs*), for the words "to a customer, by a cable operator", the words "to any person, by a cable operator, including a multisystem operator," shall be substituted;

(*f*) in sub-clause (*zx*), for the words "in relation to life insurance business", the words "in relation to the risk cover in life insurance" shall be substituted;

(*g*) in sub-clause (*zzd*), for the words "commissioning or installation", the words "erection, commissioning or installation" shall be substituted;

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

"(*zzm*) to any person, by the airports authority or any person authorised by it, in an airport or a civil enclave;

(*zzn*) to any person, by an aircraft operator, in relation to transport of goods by aircraft;

(*zzo*) to an exhibitor, by the organiser of a business exhibition, in relation to business exhibition;

(*zzp*) to a customer, by a goods transport agency, in relation to transport of goods by road in a goods carriage;

(*zzq*) to any person, by a commercial concern, in relation to construction service;

(*zzr*) to any person, by the holder of intellectual property right, in relation to intellectual property service;

(*zzs*) to any person, by an opinion poll agency, in relation to opinion poll;

(*zzt*) to a client, by an outdoor caterer;

(*zzu*) to any person, by a programme producer, in relation to a programme;

(*zzv*) to a customer, by any person, in relation to survey and exploration of mineral;

(*zzw*) to a client, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, rendered as a caterer;

(*zzx*) to a customer, by a travel agent, in relation to the booking of passage for travel;

(*zzy*) to any person, by a member of a recognised association or a registered association, in relation to a forward contract;";

(*xxi*) for clause (*115*), the following clauses shall be substituted, namely:—

'(*115*) "tour operator" means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 or the rules made thereunder;

59 of 1988.

(*115a*) "travel agent" means any person engaged in providing any service connected with booking of passage for travel, but does not include air travel agent and rail travel agent;';

(*b*) for section 66, the following section shall be substituted, namely:—

"66. There shall be levied a tax (hereinafter referred to as the service tax) at the rate of ten per cent. of the value of the taxable services referred to in sub-clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*), (*o*), (*p*), (*q*), (*r*), (*s*), (*t*), (*u*), (*v*), (*w*), (*x*), (*y*), (*z*), (*za*), (*zb*), (*zc*), (*zd*), (*ze*), (*zf*), (*zg*), (*zh*), (*zi*), (*zj*), (*zk*), (*zl*), (*zm*), (*zn*), (*zo*), (*zq*), (*zr*), (*zs*), (*zt*), (*zu*), (*zv*), (*zw*), (*zx*), (*zy*), (*zz*), (*zza*), (*zzb*), (*zzc*), (*zzd*), (*zze*), (*zzf*), (*zzg*), (*zzh*), (*zzi*), (*zzj*), (*zzk*), (*zzl*), (*zzm*), (*zzn*), (*zzo*), (*zzp*), (*zzq*), (*zzr*), (*zzs*), (*zzt*), (*zzu*), (*zzv*), (*zzw*), (*zzx*) and (*zzy*) of clause (*105*) of section 65 and collected in such manner as may be prescribed.";

Charge of service tax.

(*c*) in section 67,—

(*a*) the *Explanation* shall be numbered as *Explanation* 1, and in the *Explanation* 1 as so numbered,—

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

(*ii*) for clause (*vii*), the following clauses shall be substituted, namely:—

"(*vii*) the cost of parts or other material, if any, sold to the customer during the course of providing erection, commissioning or installation service; and

(*viii*) interest on loans.";

(*b*) after *Explanation* 1 as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation* 2.—Where the gross amount charged by a service provider is inclusive of service tax payable, the value of taxable service shall be such amount as with the addition of tax payable, is equal to the gross amount charged.";

(*d*) sections 71 and 72 shall be omitted;

(*e*) for section 73, the following section shall be substituted, namely:—

Recovery of service tax not levied or paid or short-levied or short-paid or erroneously refunded.

'73. (*1*) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise may, within one year from the relevant date, serve notice on the person chargeable with the service tax which has not been levied or paid or which has been short-levied or short-paid or the person to whom such tax refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice:

Provided that 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 intent to evade payment of service tax,

by the person chargeable with the service tax or his agent, the provisions of this sub-section shall have effect, as if, for the words "one year", the words "five years" had been substituted.

Explanation.—Where the service of the notice is stayed by an order of a court, the period of such stay shall be excluded in computing the aforesaid period of one year or five years, as the case may be.

(*2*) The Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise shall, after considering the representation, if any, made by the person on whom notice is served under sub-section (*1*), determine the amount of service tax due from, or erroneously refunded to, such person (not being in excess of the amount specified in the notice) and thereupon such person shall pay the amount so determined.

(*3*) Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax, chargeable or erroneously refunded, on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (*1*) in respect of such service tax, and inform the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise 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:

Provided that the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise may determine the amount of short-payment of service tax or erroneously refunded service tax, if any,

which in his opinion has not been paid by such person and, then, the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section (*1*) shall be counted from the date of receipt of such information of payment.

Explanation.—For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax or erroneously refunded service tax, if any, as may be determined by the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, but for this sub-section.

(*4*) Nothing contained in sub-section (*3*) shall apply to a case 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 intent to evade payment of service tax.

(*5*) The provisions of sub-section (*3*) shall not apply to any case where the service tax had become payable or ought to have been paid before the 14th day of May, 2003.

(*6*) For the purposes of this section, "relevant date" means,—

(*i*) in the case of taxable service in respect of which service tax has not been levied or paid or has been short-levied or short-paid—

(*a*) where under the rules made under this Chapter, a periodical return, showing particulars of service tax paid during the period to which the said return relates, is to be filed by an assessee, the date on which such return is so filed;

(*b*) where no periodical return as aforesaid is filed, the last date on which such return is to be filed under the said rules;

(*c*) in any other case, the date on which the service tax is to be paid under this Chapter or the rules made thereunder;

(*ii*) in a case where the service tax is provisionally assessed under this Chapter or the rules made thereunder, the date of adjustment of the service tax after the final assessment thereof;

(*iii*) in a case where any sum, relating to service tax, has erroneously been refunded, the date of such refund.';

(*f*) in section 74,—

(*i*) in sub-section (*4*), for the words "an assessment or reducing a refund or otherwise increasing the liability of the assessee", the words "the liability of the assessee or reducing a refund" shall be substituted;

(*ii*) in sub-section (*6*), for the word "assessment", the words "liability of an assessee or increasing the refund" shall be substituted;

(*iii*) in sub-section (*7*), for the word "assessment", the words "liability of the assessee" shall be substituted;

(*g*) in section 75, for the words "at the rate of fifteen per cent. per annum", the words "at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette," shall be substituted;

(*h*) section 75A shall be omitted;

(*i*) in section 76, for the words "one hundred rupees", the words "one hundred rupees for every day during which such failure continues" shall be substituted;

(*j*) for section 77, the following section shall be substituted, namely:—

Penalty for contravention of any provision for which no penalty is provided.

"77. Whoever contravenes any of the provisions of this Chapter or any rule made thereunder for which no penalty is separately provided in this Chapter, shall be liable to a penalty which may extend to an amount not exceeding one thousand rupees.";

(*k*) in section 78, for the portion beginning with the words "If the Assistant Commissioner" and ending with the words "value of such taxable service:", the following shall be substituted, namely:—

"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 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 not be less than, but which shall not exceed twice, the amount of service tax so not levied or paid or short-levied or short-paid or erroneously refunded:";

(*l*) section 79 shall be omitted;

(*m*) in section 80, for the words and figures "section 77, section 78 or section 79", the words and figures "section 77 or section 78" shall be substituted;

(*n*) section 81 shall be omitted;

(*o*) in section 85, in sub-section (*1*), the words and figures "section 71, section 72 or" shall be omitted;

(*p*) in section 86, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for sub-section (*6*), the following sub-sections shall be substituted, namely:—

"(*6*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of service tax and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,—

(*a*) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(*b*) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the

appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(*c*) where the amount of service tax and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

Provided that no fee shall be payable in the case of an appeal referred to in sub-section (*2*) or sub-section (*2A*) or a memorandum of cross-objections referred to in sub-section (*4*).

(*6A*) Every application made before the Appellate Tribunal,—

(*a*) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or

(*b*) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees:

Provided that no such fee shall be payable in the case of an application filed by the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, under this sub-section.".

(*q*) in section 94, in sub-section (*2*), for clause (*f*), the following clauses shall be substituted, namely:—

"(*f*) provisions for determining export of taxable services;

(*g*) grant of exemption to, or rebate of service tax paid on, taxable services which are exported out of India;

(*h*) rebate of service tax paid or payable on the taxable services consumed or duties paid or deemed to have been paid on goods used for providing taxable services which are exported out of India; and

(*i*) any other matter which by this Chapter is to be, or may be, prescribed.";

(*r*) in section 95, after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance (No. 2) Act, 2004, 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 two years from the date on which the Finance (No. 2) Bill, 2004 receives the assent of the President.".

CHAPTER VI

EDUCATION CESS

Education Cess.

91. (*1*) Without prejudice to the provisions of sub-section (*11*) of section 2, there shall be levied and collected, in accordance with the provisions of this Chapter as surcharge for purposes of the Union, a cess to be called the Education Cess, to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(*2*) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise, such sums of money of the Education Cess levied under sub-section (*11*) of section 2 and this Chapter for the purposes specified in sub-section (*1*), as it may consider necessary.

Definition.

of 1944.
12 of 1962.
12 of 1994.

92. The words and expressions used in this Chapter and defined in the Central Excise Act, 1944, the Customs Act, 1962 or Chapter V of the Finance Act, 1994, shall have the meanings respectively assigned to them in those Acts or Chapter, as the case may be.

Education Cess on excisable goods.

93. (*1*) The Education Cess levied under section 91, in the case of goods specified in the First Schedule to the Central Excise Tariff Act, 1985, being goods manufactured or produced, shall be a duty of excise (in this section referred to as the Education Cess on excisable goods), at the rate of two per cent., calculated on the aggregate of all duties of excise (including special duty of excise or any other duty of excise but excluding Education Cess on excisable goods) which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under the provisions of the Central Excise Act, 1944 or under any other law for the time being in force. 5 of 1986. 1 of 1944.

(*2*) The Education Cess on excisable goods shall be in addition to any other duties of excise chargeable on such goods, under the Central Excise Act, 1944 or any other law for the time being in force. 1 of 1944.

(*3*) The provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on excisable goods as they apply in relation to the levy and collection of the duties of excise on such goods under the Central Excise Act, 1944 or the rules, as the case may be. 1 of 1944.

Education Cess on imported goods.

94. (*1*) The Education Cess levied under section 91, in the case of goods specified in the First Schedule to the Customs Tariff Act, 1975, being goods imported into India, shall be a duty of customs (in this section referred to as the Education Cess on imported goods), at the rate of two per cent., calculated on the aggregate of duties of customs which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue), under section 12 of the Customs Act, 1962 and any sum chargeable on such goods under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including— 51 of 1975. 52 of 1962.

(*a*) the safeguard duty referred to in sections 8B and 8C of the Customs Tariff Act, 1975; 51 of 1975.

(*b*) the countervailing duty referred to in section 9 of the Customs Tariff Act, 1975; 51 of 1975.

(*c*) the anti-dumping duty referred to in section 9A of the Customs Tariff Act, 1975; and 51 of 1975.

(*d*) the Education Cess on imported goods.

(*2*) The Education Cess on imported goods shall be in addition to any other duties of customs chargeable on such goods, under the Customs Act, 1962 or any other law for the time being in force. 52 of 1962.

(*3*) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on imported goods as they apply in relation to the levy and collection of the duties of customs on such goods under the Customs Act, 1962 or the rules or the regulations, as the case may be. 52 of 1962.

Education Cess on taxable services.

95. (*1*) The Education Cess levied under section 91, in the case of all services which are taxable services, shall be a tax (in this section referred to as the Education Cess on taxable services) at the rate of two per cent., calculated on the tax which is levied and collected under section 66 of the Finance Act, 1994. 32 of 1994.

(*2*) The Education Cess on taxable services shall be in addition to the tax chargeable on such taxable services, under Chapter V of the Finance Act, 1994. 32 of 1994.

(*3*) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Education Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules, as the case may be. 32 of 1994.

CHAPTER VII

SECURITIES TRANSACTION TAX

96. (*1*) This Chapter extends to the whole of India. Extent, commencement and application.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(*3*) It shall apply to taxable securities transactions entered into on or after the commencement of this Chapter.

97. In this Chapter, unless the context otherwise requires,— Definitions.

(*1*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961; 43 of 1961.

(*2*) "Assessing Officer" means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(*3*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(*4*) "derivative" has the meaning assigned to it in clause (*aa*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*5*) "equity oriented fund" means a fund—

(*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than fifty per cent. of the total proceeds of such fund; and

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

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

(*6*) "Mutual Fund" means a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act, 1961; 43 of 1961.

(*7*) "option in securities" has the meaning assigned to it in clause (*d*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*8*) "option premium" means the premium payable by the purchaser of an "option in securities" at the time of such purchase;

(*9*) "prescribed" means prescribed by rules made by the Board under this Chapter;

(*10*) "recognised stock exchange" shall have the same meaning as in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(*11*) "securities transaction tax" means tax leviable on the taxable securities transactions under the provisions of this Chapter;

(*12*) "strike price" means the price at which the "option in securities" may be exercised on the expiry date of such option;

(*13*) "taxable securities transaction" means a transaction of—

(a) purchase or sale of an equity share in a company or a derivative or a unit of an equity oriented fund, entered into in a recognised stock exchange; or

(b) sale of a unit of an equity oriented fund to the Mutual Fund;

(14) words and expressions used but not defined in this Chapter and defined in the Securities Contracts (Regulation) Act, 1956, the Income-tax Act, 1961 or the rules made thereunder, shall apply, so far as may be, in relation to securities transaction tax. 42 of 1956. 43 of 1961.

Charge of securities transaction tax.

98. On and from the commencement of this Chapter, there shall be charged a securities transaction tax in respect of the taxable securities transaction specified in column *(2)* of the Table below, at the rate specified in the corresponding entry in column *(3)* of the said Table, on the value of such transaction and such tax shall be payable by the purchaser or the seller, specified in the corresponding entry in column *(4)* of the said Table:

TABLE

Sl. No.	Taxable securities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
1	Purchase of an equity share in a company or a unit of an equity oriented fund, where— (*a*) the transaction of such purchase is entered into in a recognised stock exchange; and (*b*) the contract for the purchase of such share or unit is settled by the actual delivery or transfer of such share or unit.	0.075 per cent.	Purchaser
2	Sale of an equity share in a company or a unit of an equity oriented fund, where— (*a*) the transaction of such sale is entered into in a recognised stock exchange; and (*b*) the contract for the sale of such share or unit is settled by the actual delivery or transfer of such share or unit.	0.075 per cent.	Seller
3	Sale of an equity share in a company or a unit of an equity oriented fund, where— (*a*) the transaction of such sale is entered into in a recognised stock exchange; and (*b*) the contract for the sale of such share or unit is settled otherwise than by the actual delivery or transfer of such share or unit.	0.015 per cent.	Seller
4	Sale of a derivative, where the transaction of such sale is entered into in a recognised stock exchange.	0.01 per cent.	Seller
5	Sale of a unit of an equity oriented fund to the Mutual Fund.	0.15 per cent.	Seller

Value of taxable securities transaction.

99. The value of taxable securities transaction,—

(a) in the case of a taxable securities transaction relating to a derivative, being "option in securities", shall be the aggregate of the strike price and the option premium of such "option in securities";

(b) in the case of a taxable securities transaction relating to a derivative, being "futures", shall be the price at which such "futures" is traded; and

(c) in the case of any other taxable securities transaction, shall be the price at which such securities are purchased or sold:

Provided that the Board may, having regard to the manner in which taxable securities transactions are settled in a recognised stock exchange or such other factors which may be relevant for the purposes of determining the price of such securities, specify, by rules made by it, the method of determining the price of such securities for the purposes of this clause.

Collection and recovery of securities transaction tax.

100. *(1)* Every recognised stock exchange shall collect the securities transaction tax from every person, being a purchaser or a seller, as the case may be, who enters into a taxable securities transaction in that stock exchange, at the rates specified in section 98.

(2) The prescribed person in the case of every Mutual Fund shall collect the securities transaction tax from every person who sells a unit to that Mutual Fund, at the rate specified in section 98.

(3) The securities transation tax collected during any calendar month in accordance with the provisions of sub-section *(1)* or sub-section *(2)*, shall be paid by every recognised stock exchange or by the prescribed person in the case of every Mutual Fund, as the case may be, to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(4) Any recognised stock exchange or the prescribed person in the case of any Mutual Fund, who fails to collect the tax in accordance with the provisions of sub-section *(1)* or sub-section *(2)*, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section *(3)*.

Recognised stock exchange or Mutual Fund to furnish prescribed return.

101. *(1)* Every recognised stock exchange or the prescribed person in the case of every Mutual Fund (hereafter in this Chapter referred to as assessee) shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form and verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable securities transactions entered into during such financial year in that stock exchange or, as the case may be, in respect of all taxable securities transactions, being sale of units to such Mutual Fund during such financial year.

(*2*) Where any assessee fails to furnish the return under sub-section (*1*) within the prescribed time, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

(*3*) Any assessee who has not furnished the return within the time allowed under sub-section (*1*) or sub-section (*2*), or having furnished a return under sub-section (*1*) or sub-section (*2*), discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

Assessment.

102. (*1*) For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under section 101 or upon whom a notice has been served under sub-section (*2*) of section 101 (whether a return has been furnished or not), a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(*2*) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (*1*) and after taking into account any other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable securities transactions during the relevant financial year and determine the amount of securities transaction tax payable or refundable on the basis of such assessment:

Provided that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(*3*) Every assessee, in case any amount is refunded to it on assessment under sub-section (*2*), shall, within such time as may be prescribed, refund such amount to the concerned person from whom such amount was collected.

Rectification of mistake.

103. (*1*) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this Chapter within one year from the end of the financial year in which the order sought to be amended was passed.

(*2*) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section (*1*), the Assessing Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(*3*) Subject to the other provisions of this section, the Assessing officer may—

(*a*) make an amendment under sub-section (*1*) of his own motion; or

(*b*) make such amendment if any mistake is brought to his notice by the assessee.

(*4*) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(*5*) Where an amendment is made under this section, an order shall be passed in writing by the Assessing Officer.

(*6*) Subject to the other provisions of this Chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund, which may be due to such assessee.

(*7*) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

Interest on delayed payment of securities transaction tax.

104. Every assessee who fails to credit the securities transaction tax or any part thereof as required under section 100, to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent. of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

Penalty for failure to collect or pay securities transaction tax.

105. Any assessee who—

(*a*) fails to collect the whole or any part of the securities transaction tax as required under section 100; or

(*b*) having collected the securities transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (*3*) of that section, shall be liable to pay,—

(*i*) in the case referred to in clause (*a*), in addition to paying the tax in accordance with the provisions of sub-section (*4*) of that section, or interest, if any, in accordance with the provisions of section 104, by way of a penalty, a sum equal to the amount of securities transaction tax that he failed to collect; and

(*ii*) in the case referred to in clause (*b*), in addition to paying the tax in accordance with the provisions of sub-section (*3*) of that section and interest in accordance with the provisions of section 104, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of securities transaction tax that it failed to pay.

Penalty for failure to furnish prescribed return.

106. If an assessee fails to furnish in due time the return which it is required to furnish under sub-section (*1*) of section 101 or by notice given under sub-section (*2*) of that section, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

Penalty for failure to comply with notice.

107. If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with a notice under sub-section (*1*) of section 102, he may direct that such person shall pay, by way of penalty, in addition to any securities transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each such failure.

Penalty not to be imposed in certain cases.

108. Notwithstanding anything contained in the provisions of section 105 or section 106 or section 107, no penalty shall be imposable for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure:

Provided that no order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

Application of certain provisions of Act 43 of 1961.

43 of 1961.

109. The provisions of the following sections of the Income-tax Act, 1961, as in force from time to time, shall apply, so far as may be, in relation to securities transaction tax as they apply in relation to income-tax:—

120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293.

Appeals to Commissioner of Income-tax (Appeals).

110. (*1*) Any assessee aggrieved by any assessment order passed by the Assessing Officer under section 102 or any order under section 103, or denying his liability to be assessed under this Chapter, or by an order levying penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

(*2*) Every appeal under sub-section (*1*) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one thousand rupees.

(*3*) Where an appeal has been filed under the provisions of sub-section (*1*), the provisions of sections 249 to 251 of the Income-tax Act, 1961, shall, as far as may be, apply.

43 of 1961.

Appeals to the Appellate Tribunal.

111. (*1*) Any assessee aggrieved by an order passed by a Commissioner of Income-tax (Appeals) under section 110 may appeal to the Appellate Tribunal against such order.

(*2*) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 110, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(*3*) Every appeal under sub-section (*1*) or sub-section (*2*) shall be filed within sixty days of the date on which the order sought to be appealed against is received by the assessee, or by the Commissioner of Income-tax, as the case may be.

(*4*) Every appeal under sub-section (*1*) or sub-section (*2*) shall be in the prescribed form and shall be verified in the prescribed manner and in the case of an appeal filed under sub-section (*1*) shall be accompanied by a fee of one thousand rupees.

(*5*) Where an appeal has been filed before the Appellate Tribunal under sub-section (*1*) or sub-section (*2*), the provisions of sections 252 to 255 of the Income-tax Act, 1961, shall, as far as may be, apply. 43 of 1961.

False statement in verification, etc.

112. (*1*) If a person makes a statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (*1*) shall be deemed to be non-cognizable within the meaning of that Code. 2 of 1974.

Institution of proceedings.

113. A person shall not be proceeded against for any offence under section 112 except with the previous sanction of the Chief Commissioner of Income-tax.

Power to make rules.

114. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which the return shall be delivered or caused to be delivered to the Assessing Officer or to any other agency and the form and the manner in which such return shall be furnished under sub-section (*1*) or sub-section (*2*) of section 101;

(*b*) the time within which the return shall be furnished on receipt of notice under sub-section (*2*) of section 101;

(*c*) the form in which an appeal under section 110 or section 111 may be filed and the manner in which they may be verified;

(*d*) any other matter which by this Chapter is to be, or may be, prescribed.

(*3*) Every rule made under this Chapter and every notification issued under this Chapter shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Power to remove difficulties.

115. (*1*) If any difficulty arises in giving effect to the provisions of this Chapter, 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 two years from the date on which the provisions of this Chapter come into force.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

CHAPTER VIII

MISCELLANEOUS

116. In section 3 of the Government Savings Banks Act, 1873, for clause (*b*), the following clauses shall be substituted, namely:— Amendment of Act 5 of 1873.

'(*b*) "Government Savings Bank" means—

(*i*) a Post Office Savings Bank; or

(*ii*) a banking company, or any other company or institution, as the Central Government may, by notification in the Official Gazette, specify, for the purposes of this Act;

(*bb*) "Secretary" means,—

(*i*) in the case of a Post Office Savings Bank, the Postmaster-General appointed for the area in which the Post Office Savings Bank is situated, or any officer of the Government as the Central Government may, by general or special order, specify in this behalf; and

(*ii*) in the case of a banking company or other company or institution, an officer of that banking company or other company or institution, as the case may be, or any officer of the Government or any other person as the Central Government may, by general or special order, specify in this behalf;'.

117. In the Indian Stamp Act, 1899,— Amendment of Act 2 of 1899.

(*i*) in section 2, after clause (*25*), the following clause shall be inserted, namely:—

'(*26*) "Stamp" means any mark, seal or endorsement by any agency or person duly authorised by the State Government, and includes an adhesive or impressed stamp, for the purposes of duty chargeable under this Act.';

(*ii*) in section 9, in sub-section (*1*), in clause (*b*), after the words "consolidation of duties", the words "of policies of insurance and" shall be inserted;

(*iii*) in Schedule I, in Article No. 53, in the first column, for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

4 of 1956. **118.** In section 8 of the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act),— Amendment of section 8.

(*a*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) Notwithstanding anything contained in this section, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce to a registered dealer for the purpose of setting up, operation, maintenance, manufacture, trading, production, processing, assembling, repairing, reconditioning, re-engineering, packaging or for use as packing material or packing accessories in a unit located in any special economic zone or for development, operation and maintenance of special economic zone by the developer of the special economic zone, if such registered dealer has been authorised to establish such unit or to develop, operate and maintain such special economic zone by the authority specified by the Central Government in this behalf.";

(*b*) in sub-section (*8*), for the words, brackets and figures "authority referred to in sub-section (*6*) a declaration in the prescribed manner on the prescribed form obtained from the authority referred to in sub-section (*5*)", the following shall be substituted, namely:—

"prescribed authority referred to in sub-section (*4*) a declaration in the prescribed manner on the prescribed form obtained from the authority specified by the Central Government under sub-section (*6*)".

Amendment of Chapter VI.

119. In Chapter VI of the Central Sales Tax Act, as directed to be inserted by section 3 of the Central Sales Tax (Amendment) Act, 2001, and as it stands amended by the Finance Act, 2003, with effect from the commencement of the Central Sales Tax (Amendment) Act, 2001,— 41 of 2001. 32 of 2003.

(*a*) in section 19, in sub-section (*1*), for the words, figures and letter "section 6A or section 9", the words, figures and letter "section 6A read with section 9" shall be substituted;

(*b*) in section 20, in sub-section (*1*), for the words, figures and letter "section 6A or section 9", the words, figures and letter "section 6A read with section 9" shall be substituted;

(*c*) in section 21, in sub-section (*3*), in the first proviso, for the words "also to the State Government", the words "also to each State Government" shall be substituted;

(*d*) in section 22, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Authority may grant stay of the operation of the order of the assessing authority against which the appeal is filed before it or order the pre-deposit of the tax before entertaining the appeal and while granting such stay or making such order for the pre-deposit of the tax, the Authority shall have regard, if the assessee has already made pre-deposit of the tax under the general sales tax law of the State concerned, to such pre-deposit.";

(*e*) in section 25, for the words "every appeal", the words "any proceeding" shall be substituted;

(*f*) in section 26, for the words "the assessing authorities", the words "each State Government concerned, the assessing authorities" shall be substituted.

Amendment of section 4 of Act 39 of 2003.

120. In section 4 of the Fiscal Responsibility and Budget Management Act, 2003, for the figures, letters and word "31st March, 2008", at both the places where they occur, the figures, letters and word "31st March, 2009" shall be substituted.

Repeal of section 2 of Act 13 of 2004.

121. Section 2 of the Finance Act, 2004 is hereby repealed and shall be deemed never to have been enacted.

THE FIRST SCHEDULE

(*See* section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual 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. 50,000	*Nil;*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total income exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every person, other than those mentioned in item (*i*), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding eight hundred and fifty thousand 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 eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

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.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of eve firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of suc income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	35 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	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 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

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 other than a security of the Central or State Government 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	
(*vi*) on any other income	20 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 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.;
(*D*) 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	20 per cent.;
(*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 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	20 per cent.;
(*B*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*C*) on income by way of winnings from horse races	30 per cent.;
(*D*) 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.;
(*E*) on the whole of the other income	30 per cent.

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" — 20 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 — 20 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 — 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 (*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—

(*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 — 20 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 — 20 per cent.;

(*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	20 per cent.;
(*vii*) 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.;
(*viii*) 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 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—

(*A*) item *1* of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(*i*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten 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 eight hundred and fifty thousand rupees;

(*ii*) in the case of every co-operative society, firm and local authority, at the rate of two and one-half per cent. of such tax;

(*iii*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(*B*) item *2* of this Part, shall be increased by a surcharge, for purposes of the Union, calculated at the rate of two and one-half per cent. of such income-tax.

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 174 or 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 section 115JB 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 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 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual 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. 50,000	*Nil*;
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent. of the amount by which the total income exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000.

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,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIIIA, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(*ii*) in the case of every person, other than those mentioned in item (*i*), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax :

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding eight hundred and fifty thousand 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 eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

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.

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 co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	35 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	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 at the rate of two and one-half per cent. of such income-tax.

PART IV

[*See* section 2(*12*)(*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) of 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 accordance 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, 2004, 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, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003, 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, 1996, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, 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, 2002 or the 1st day of April, 2003,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, 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, 2003,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

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, 2004.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2005, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004, 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, 1997, 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, 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, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, 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, 2003 or the 1st day of April, 2004,

(*vii*) 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,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

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, 2005.

(*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 (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), 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 88(*1*)]

Provision of the CENVAT Credit Rules, 2002 to be amended	Amendment	Date of effect of amendment
(1)	(2)	(3)
Explanation to clause (*b*) of sub-rule (*6*) of rule 3.	In the CENVAT Credit Rules, 2002, in rule 3, in sub-rule (*6*), in clause (*b*), for the *Explanation*, the following *Explanation* shall be substituted, namely:— "*Explanation*.—For the removal of doubts, it is hereby declared that the credit of the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and paid on or after the 1st day of April, 2000, may be utilised towards payment of duty of excise leviable under the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);".	1st March, 2003.

THE BANKING REGULATION (AMENDMENT) AND MISCELLANEOUS PROVISIONS ACT, 2004

No. 24 OF 2004

[20*th December*, 2004.]

An Act further to amend the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004.

(*2*) Save as otherwise provided in this Act, the provisions of this Act shall be deemed to have come into force on the 24th day of September, 2004.

CHAPTER II

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

Amendment of section 56 of Act 10 of 1949.

2. In Part V of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the principal Act), in the provisions of the principal Act as applied to, or in relation to, co-operative societies, by section 56,—

(*I*) in section 5 of the principal Act, as amended by sub-clause (*i*) of clause (*c*) of the said section 56,—

(*A*) after clause (*ccii*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:—

'(*cciia*) "co-operative society" means a society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-State co-operative societies, or any other Central or State law relating to co-operative societies for the time being in force;';

(*B*) after clause (*cciii*), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:—

'(*cciiia*) "multi-State co-operative bank" means a multi-State co-operative society which is a primary co-operative bank;

(*cciiib*) "multi-State co-operative society" means a multi-State co-operative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;';

(*C*) in clause (*ccvii*), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(*II*) after section 22 of the principal Act, as amended by clause (*o*) of the said section 56, the following section shall be inserted, namely:—

Validation of licences granted by Reserve Bank to multi-State co-operative societies.

"22A. Notwithstanding anything contained in any law or, judgment delivered or decree or order of any court made,—

(*a*) no licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be invalid or be deemed ever to have been invalid merely by the reason of such judgment, decree or order;

(*b*) every licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004, shall be valid and be deemed always to have been validly granted in accordance with law;

(*c*) a multi-State co-operative society whose application for grant of licence for carrying on banking business was pending with the Reserve Bank on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004 shall be eligible to carry on banking business until it is granted a licence in pursuance of section 22 or is, by a notice in writing notified by the Reserve Bank that the licence cannot be granted to it;";

(*III*) for clause (*zaa*) of the said section 56, the following clauses shall be substituted, namely:—

'(*zaa*) after section 36AA of the principal Act, the following sections shall be inserted, namely:—

Supersession of Board of directors of a multi-State co-operative bank.

"36AAA. (*1*) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a multi-State co-operative bank being conducted in a manner detrimental to the interest of the depositors or of the multi-State co-operative bank or for securing the proper management of the multi-State co-operative bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such multi-State co-operative bank for a period not exceeding five years as may be specified in the order, which may be extended from time to time, so, however, that total period shall not exceed five years.

(*2*) The Reserve Bank may, on supersession of the Board of directors of the multi-State co-operative bank under sub-section (*1*) appoint an Administrator for such period as it may determine.

(*3*) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(*4*) Upon making the order of supersession of the Board of directors of a multi-State co-operative bank,—

(*a*) the chairman, managing director and other directors as from the date of supersession of the Board shall vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of the Multi-State Co-operative Societies Act, 2002 or this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such a multi-State co-operative bank or by a resolution passed in general meeting of such co-operative bank, shall, until the Board of directors of such co-operative bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (*2*): 39 of 2002.

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such multi-State co-operative bank.

(*5*) (*a*) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in discharge of his duties.

(*b*) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(*6*) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned multi-State co-operative bank.

(*7*) On and before expiration of period of supersession of the Board of directors as specified in the order issued under sub-section (*1*), the Administrator of the multi-State co-operative bank shall call the general meeting of the society to elect new directors.

(*8*) Notwithstanding anything contained in any other law or in any contract, or bye-laws of a multi-State co-operative bank, no person shall be entitled to claim any compensation for the loss or termination of his office.

(*9*) The Administrator appointed under sub-section (*2*) shall vacate office immediately after the Board of directors of the multi-State co-operative society has been constituted.

Order of winding up of multi-State co-operative bank to be final in certain cases.

36AAB. Where a multi-State co-operative bank, being an eligible co-operative bank, has been registered under section 13A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as an insured bank, and subsequently — 47 of 1961.

(*a*) in pursuance of a scheme prepared with the previous approval of the Reserve Bank under section 18 of the Multi-State Co-operative Societies Act, 2002, an order sanctioning a scheme of 39 of 2002.

compromise and arrangement or reorganisation or reconstruction has been made; or

(*b*) on requisition by the Reserve Bank, an order for winding up of the multi-State co-operative bank has been made under section 87 of the Multi-State Co-operative Societies Act, 2002; or

002.

(*c*) an order for the supersession of the Board and the appointment of an Administrator therefor has been made under section 36AAA,

such order for sanctioning the scheme of compromise and arrangement or reorganisation or reconstruction under clause (*a*) or the winding up of the multi-State co-operative bank under clause (*b*) or an order for the supersession of the Board and the appointment of an Administrator under clause (*c*) shall not be liable to be called in question in any manner.

Reimbursement to Deposit Insurance Corporation by liquidator or transferee bank.

36AAC. Where a multi-State co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, is wound up and the Deposit Insurance Corporation has become liable to the depositors' of the insured bank under sub-section (*1*) or sub-section (*2*) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act.";

1961.

(*zab*) in section 36AD, sub-section (*3*) shall be omitted;';

(*IV*) in clause (*zb*) of the said section 56, for the word, figures and letter "Part IIA", the words, figures and letters "Part IIA except sections 36AAA, 36AAB and 36AAC" shall be substituted.

CHAPTER III

AMENDMENTS TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

Amendment of section 2 of Act 47 of 1961.

3. In the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in section 2,—

(*a*) in clause (*q*), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(*b*) in clause (*r*), for the words "primary co-operative bank", the words "co-operative society", "primary co-operative bank" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1966.

CHAPTER IV

REPEAL AND SAVING

Repeal and saving.

4. (*1*) The Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004 is hereby repealed.

. 3 of 2004.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Banking Regulation Act, 1949 and the Deposit Insurance and Credit Guarantee Corporation Act, 1961, as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

of 1949.

of 1961.

THE CUSTOMS AND CENTRAL EXCISE LAWS (REPEAL) ACT, 2004

No. 25 OF 2004

[21*st December*, 2004.]

An Act to repeal certain Customs and Central Excise enactments.

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

Short title.

1. This Act may be called the Customs and Central Excise Laws (Repeal) Act, 2004.

Repeal of certain enactments.

2. The enactments specified in the Schedule are hereby repealed.

Savings.

3. *(1)* The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceedings in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(2) Sub-section *(1)* shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal of the Acts specified in the Schedule. 10 of 1897

THE SCHEDULE
(*See* section 2)

Year	Number	Short title
(1)	(2)	(3)
1958	27	The Mineral Oils (Additional Duties of Excise and Customs) Act, 1958.
1959	58	The Sugar (Special Excise Duty) Act, 1959.
1986	45	The Central Duties of Excise (Retrospective Exemption) Act, 1986.
1986	62	The Customs and Excise Revenues Appellate Tribunal Act, 1986.
1988	29	The Customs and Central Excises Laws (Amendment) Act, 1988.

THE PREVENTION OF TERRORISM (REPEAL) ACT, 2004

No. 26 of 2004

[21*st December*, 2004.]

An Act to repeal the Prevention of Terrorism Act, 2002.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Terrorism (Repeal) Act, 2004.

(*2*) It shall be deemed to have come into force on the 21st day of September, 2004.

Repeal of Act 15 of 2002 and saving.

2. (*1*) The Prevention of Terrorism Act, 2002 (hereinafter referred to as the principal Act) is hereby repealed.

(*2*) The repeal of the principal Act shall not affect—

(*a*) the previous operation of, or anything duly done or suffered under the principal Act, or

(*b*) any right, privilege or obligation or liability acquired, accrued or incurred under the principal Act, or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence under the principal Act, or

(*d*) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and, any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the principal Act had not been repealed:

Provided that notwithstanding anything contained in this sub-section or in any other law for the time being in force, no court shall take cognizance of an offence under the principal Act after the expiry of the period of one year from the commencement of this Act.

(*3*) Notwithstanding the repeal of section 60 of the principal Act, the Review Committee constituted by the Central Government under sub-section (*1*) of that section, whether or not an application under sub-section (*4*) of that section has been made, shall review all cases registered under the principal Act as to whether there is a *prima facie*

case for proceeding against the accused thereunder and such review shall be completed within a period of one year from the commencement of this Act and where the Review Committee is of the opinion that there is no *prima facie* case for proceeding against the accused, then,—

(*a*) in cases in which cognizance has been taken by the Court, the cases shall be deemed to have been withdrawn; and

(*b*) in cases in which investigations are pending, the investigations shall be closed forthwith,

with effect from the date of issuance of the direction by such Review Committee in this regard.

(*4*) The Review Committee constituted by the Central Government under sub-section (*1*) of section 60 of the principal Act shall, while reviewing cases, have powers of a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:— 5 of 1908.

(*a*) discovery and production of any document;

(*b*) requisitioning any public record or copy thereof from any court or office.

(*5*) The Central Government may constitute more Review Committees, as it may consider necessary, for completing the review within the period specified in sub-section (*3*).

Ord. 1 of 2004. **3.** (*1*) The Prevention of Terrorism (Repeal) Ordinance, 2004 is hereby repealed. Repeal and saving.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE APPROPRIATION (RAILWAYS) NO. 4 ACT, 2004

No. 27 of 2004

[21*st December*, 2004.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2004-05 for the purposes of Railways.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (Railways) No. 4 Act, 2004.

Issue of Rs. 2565,40,15,000 out of the Consolidated Fund of India for the financial year 2004-05.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two thousand five hundred and sixty-five crores, forty lakhs and fifteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2004-05, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(*See* sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
16	Assets—Acquisition, Construction and Replacement			
	Other Expenditure			
	Capital	1537,00,00,000	..	1537,00,00,000
	Railway Funds	10,000	..	10,000
	Railway Safety Fund	5,000	..	5,000
	Special Railway Safety Fund	1028,40,00,000	..	1028,40,00,000
	TOTAL	2565,40,15,000	..	2565,40,15,000

THE SPECIAL TRIBUNALS (SUPPLEMENTARY PROVISIONS) REPEAL ACT, 2004

No. 28 OF 2004

[24*th December*, 2004.]

An Act to repeal the Special Tribunals (Supplementary Provisions) Act, 1946.

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

Short title.

1. This Act may be called the Special Tribunals (Supplementary Provisions) Repeal Act, 2004.

Repeal of Act 26 of 1946.

2. The Special Tribunals (Supplementary Provisions) Act, 1946 is hereby repealed.

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2004

No. 29 OF 2004

[29*th December*, 2004.]

An Act further to amend the Unlawful Activities (Prevention) Act, 1967.

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

1. (*1*) This Act may be called the Unlawful Activities (Prevention) Amendment Act, 2004. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 21st day of September, 2004.

of 1967. **2.** In the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as the principal Act), in the long title, after the word "associations", the words ", and for dealing with terrorist activities," shall be inserted. Amendment of long title.

f 1898. **3.** In the principal Act, for the words and figures "Code of Criminal Procedure, 1898", wherever they occur, the word "Code" shall be substituted. Substitution of word "Code" for "Code of Criminal Procedure, 1898".

4. In Chapter I of the principal Act, for sections 1, 2 and 2A, the following sections shall be substituted, namely:— Amendment of Chapter I.

of 1967. '1. (*1*) This Act may be called the Unlawful Activities (Prevention) Act, 1967. Short title, extent and application.

(*2*) It extends to the whole of India.

(*3*) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(*4*) Any person, who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

(*5*) The provisions of this Act apply also to—

(*a*) citizens of India outside India;

(*b*) persons in the service of the Government, wherever they may be; and

(*c*) persons on ships and aircrafts, registered in India, wherever they may be.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "association" means any combination or body of individuals;

(*b*) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;

(*c*) "Code" means the Code of Criminal Procedure, 1973; 2 of 197

(*d*) "court" means a criminal court having jurisdiction, under the Code, to try offences under this Act;

(*e*) "Designated Authority" means such officer of the Central Government not below the rank of Joint Secretary to that Government, or such officer of the State Government not below the rank of Secretary to that Government, as the case may be, as may be specified by the Central Government or the State Government, by notification published in the Official Gazette;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "proceeds of terrorism" means all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found, and includes any property which is being used, or is intended to be used, for the purpose of a terrorist organisation;

(*h*) "property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, and includes cash and bank account;

(*i*) "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India;

(*j*) "State Government", in relation to a Union territory, means the Administrator thereof;

(*k*) "terrorist act" has the meaning assigned to it in section 15, and the expressions "terrorism" and "terrorist" shall be construed accordingly;

(*l*) "terrorist gang" means any association, other than terrorist organisation, whether systematic or otherwise, which is concerned with, or involved in, terrorist act;

(*m*) "terrorist organisation" means an organisation listed in the Schedule or an organisation operating under the same name as an organisation so listed;

(*n*) "Tribunal" means the Tribunal constituted under section 5;

(*o*) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

(*i*) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or

(*ii*) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(*iii*) which causes or is intended to cause disaffection against India;

(*p*) "unlawful association" means any association,—

(*i*) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(*ii*) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

1860.

Provided that nothing contained in sub-clause (*ii*) shall apply to the State of Jammu and Kashmir;

(*q*) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(*2*) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.'.

5. In section 5 of the principal Act, in sub-section (*7*), for the word and figures "Chapter XXXV", the word and figures "Chapter XXVI" shall be substituted.

Amendment of section 5.

6. For section 10 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 10.

"10. Where an association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (*3*) of that section,—

Penalty for being member of an unlawful association, etc.

(*a*) a person, who—

(*i*) is and continues to be a member of such association; or

(*ii*) takes part in meetings of such association; or

(*iii*) contributes to, or receives or solicits any contribution for the purpose of, such association; or

(*iv*) in any way assists the operations of such association,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and

(*b*) a person, who is or continues to be a member of such association, or voluntarily does an act aiding or promoting in any manner the objects of such association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property,—

(*i*) and if such act has resulted in the death of any person, shall be punishable with death or imprisonment for life, and shall also be liable to fine;

(*ii*) in any other case, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.".

Substitution of new Chapters and Schedule for Chapter IV.

7. For Chapter IV of the principal Act, the following Chapters and the Schedule shall be substituted, namely:—

'CHAPTER IV

PUNISHMENT FOR TERRORIST ACTIVITIES

Terrorist act.

15. Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

Punishment for terrorist act.

16. (*1*) Whoever commits a terrorist act shall,—

(*a*) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine;

(*b*) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for raising fund for terrorist act.

17. Whoever raises fund for the purpose of committing a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for conspiracy, etc.

18. Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for harbouring, etc.

19. Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person is a terrorist shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

20. Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for being member of terrorist gang or organisation.

21. Whoever knowingly holds any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Punishment for holding proceeds of terrorism.

22. Whoever threatens any person who is a witness or any other person in whom such witness may be interested, with violence, or wrongfully restrains or confines the witness, or any other person in whom the witness may be interested, or does any other unlawful act with intent to cause any of the said acts, shall be punishable with imprisonment which may extend to three years, and shall also be liable to fine.

Punishment for threatening witness.

Enhanced penalties.

4 of 1884.
6 of 1908.
20 of 1952.
54 of 1959.

23. (*1*) If any person with intent to aid any terrorist contravenes any provision of, or any rule made under the Explosives Act, 1884 or the Explosive Substances Act, 1908 or the Inflammable Substances Act, 1952 or the Arms Act, 1959, or is in unauthorised possession of any bomb, dynamite or hazardous explosive substance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare, he shall, notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(*2*) Any person who, with intent to aid any terrorist, attempts to contravene or abets, or does any act preparatory to contravention of any provision of any law or rule specified in sub-section (*1*), shall be deemed to have contravened that provision under sub-section (*1*) and the provisions of that sub-section in relation to such person, have effect subject to the modification that the reference to "imprisonment for life" therein shall be construed as a reference to "imprisonment for ten years".

CHAPTER V

FORFEITURE OF PROCEEDS OF TERRORISM

Forfeiture of proceeds of terrorism.

24. (*1*) No person shall hold or be in possession of any proceeds of terrorism.

(*2*) Proceeds of terrorism, whether held by a terrorist or by any other person and whether or not such terrorist or other person is prosecuted or convicted for any offence under Chapter IV or Chapter VI, shall be liable to be forfeited to the Central Government or the State Government, as the case may be, in the manner provided under this Chapter.

Powers of investigating officer and Designated Authority and appeal against order of Designated Authority.

25. (*1*) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of the Police of the State in which such property is situated, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.

(*2*) The investigating officer shall duly inform the Designated Authority within forty-eight hours of the seizure or attachment of such property.

(*3*) The Designated Authority before whom the seized or attached property is produced shall either confirm or revoke the order of seizure or attachment so issued within a period of sixty days from the date of such production:

Provided that an opportunity of making a representation by the person whose property is being seized or attached shall be given.

(*4*) In the case of immovable property attached by the investigating officer, it shall be deemed to have been produced before the Designated Authority, when the investigating officer notifies his report and places it at the disposal of the Designated Authority.

(*5*) The investigating officer may seize and detain any cash to which this Chapter applies if he has reasonable grounds for suspecting that—

(*a*) it is intended to be used for the purposes of terrorism; or

(*b*) it forms the whole or part of the resources of a terrorist organisation:

Provided that the cash seized under this sub-section by the investigating officer shall be released within a period of forty-eight hours beginning with the time when it is seized unless the matter involving the cash is before the Designated Authority and such Authority passes an order allowing its retention beyond forty-eight hours.

Explanation.—For the purposes of this sub-section, "cash" means—

(*a*) coins or notes in any currency;

(*b*) postal orders;

(*c*) traveller's cheques;

(*d*) banker's drafts; and

(*e*) such other monetary instruments as the Central Government or, as the case may be, the State Government may specify by an order made in writing.

(*6*) Any person aggrieved by an order made by the Designated Authority may prefer an appeal to the court within a period of thirty days from the date of receipt of the order, and the court may either confirm the order of attachment of property or seizure so made or revoke such order and release the property.

Court to order forfeiture of proceeds of terrorism.

26. Where any property is seized or attached on the ground that it constitutes proceeds of terrorism and the court confirms the order in this regard under sub-section (*6*) of section 25, it may order forfeiture of such property, whether or not the person from whose possession it is seized or attached, is prosecuted in a court for an offence under Chapter IV or Chapter VI.

Issue of show cause notice before forfeiture of proceeds of terrorism.

27. (*1*) No order forfeiting any proceeds of terrorism shall be made under section 26 unless the person holding or in possession of such proceeds is given a notice in writing informing him of the grounds on which it is proposed to forfeit the proceeds of terrorism and such person is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of forfeiture and is also given a reasonable opportunity of being heard in the matter.

(*2*) No order of forfeiture shall be made under sub-section (*1*), if such person establishes that he is a *bona fide* transferee of such proceeds for value without knowing that they represent proceeds of terrorism.

(*3*) It shall be competent for the court to make an order in respect of property seized or attached,—

(*a*) directing it to be sold if it is a perishable property and the provisions of section 459 of the Code shall, as nearly as may be practicable, apply to the net proceeds of such sale;

(*b*) nominating any officer of the Central Government or the State Government, in the case of any other property, to perform the function of the Administrator of such property subject to such conditions as may be specified by the court.

Appeal.

28. (*1*) Any person aggrieved by an order of forfeiture under section 26 may, within one month from the date of the receipt of such order, appeal to the High Court within whose jurisdiction, the court, which passed the order appealed against, is situated.

(*2*) Where an order under section 26 is modified or annulled by the High Court or where in a prosecution instituted for any offence under Chapter IV or Chapter VI, the person against whom an order of forfeiture has been made under section 26 is acquitted, such property shall be returned to him and in either case if it is not possible for any reason to return the forfeited property, such person shall be paid the price therefor as if the property had been sold to the Central Government with reasonable interest calculated from the day of seizure of the property and such price shall be determined in the manner prescribed.

Order of forfeiture not to interfere with other punishments.

29. The order of forfeiture made under this Chapter by the court, shall not prevent the infliction of any other punishment to which the person affected thereby is liable under Chapter IV or Chapter VI.

Claims by third party.

30. (*1*) Where any claim is preferred or any objection is made to the seizure or attachment of any property under section 25 on the ground that such property is not liable to seizure or attachment, the Designated Authority before whom such property is produced, shall proceed to investigate the claim or objection:

Provided that no such investigation shall be made where the Designated Authority considers that the claim or objection is designed to cause unnecessary delay.

(*2*) Where an appeal has been preferred under sub-section (6) of section 25 and any claimant or objector establishes that the property specified in the notice issued under section 27 is not liable to be forfeited under this Chapter, the said notice shall be withdrawn or modified accordingly.

Powers of Designated Authority.

31. The Designated Authority, acting under the provisions of this Chapter, shall have all the powers of a civil court required for making a full and fair inquiry into the matter before it.

Certain transfers to be null and void.

32. Where, after the issue of an order under section 25 or issue of a notice under section 27, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purpose of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited, the transfer of such property shall be deemed to be null and void.

Forfeiture of property of certain persons.

33. (*1*) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, if not already attached under this Chapter.

(*2*) Where a person has been convicted of any offence punishable under Chapter IV or Chapter VI, the court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the Central Government or the State Government, as the case may be, free from all encumbrances.

Company to transfer shares to Government.

34. Where any share in a company stand forfeited to the Central Government or the State Government, as the case may be, under this Chapter, then, the company shall, on receipt of the order of the court, notwithstanding anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Central Government or the State Government, as the case may be, as the transferee of such share. 1 of 1956.

CHAPTER VI

TERRORIST ORGANISATIONS

Amendment of Schedule, etc.

35. (*1*) The Central Government may, by order, in the Official Gazette,—

(*a*) add an organisation to the Schedule;

(*b*) add also an organisation to the Schedule, which is identified as a terrorist organisation in a resolution adopted by the Security Council under Chapter VII of the Charter of the United Nations, to combat international terrorism;

(*c*) remove an organisation from the Schedule;

(*d*) amend the Schedule in some other way.

(*2*) The Central Government shall exercise its power under clause (*a*) of sub-section (*1*) in respect of an organisation only if it believes that it is involved in terrorism.

(*3*) For the purposes of sub-section (*2*), an organisation shall be deemed to be involved in terrorism if it—

(*a*) commits or participates in acts of terrorism, or

(*b*) prepares for terrorism, or

(*c*) promotes or encourages terrorism, or

(*d*) is otherwise involved in terrorism.

Denotification of a terrorist organisation.

36. (*1*) An application may be made to the Central Government for the exercise of its power under clause (*c*) of sub-section (*1*) of section 35 to remove an organisation from the Schedule.

(*2*) An application under sub-section (*1*) may be made by—

(*a*) the organisation, or

(*b*) any person affected by inclusion of the organisation in the Schedule as a terrorist organisation.

(*3*) The Central Government may prescribe the procedure for admission and disposal of an application made under this section.

(*4*) Where an application under sub-section (*1*) has been rejected the applicant may apply for a review to the Review Committee constituted by the Central Government under sub-section (*1*) of section 37 within one month from the date of receipt of the order of such refusal by the applicant.

(*5*) The Review Committee may allow an application for review against rejection to remove an organisation from the Schedule, if it considers that the decision to reject was flawed when considered in the light of the principles applicable on an application for judicial review.

(*6*) Where the Review Committee allows review under sub-section (*5*) by or in respect of an organisation, it may make an order to such effect.

(*7*) Where an order is made under sub-section (*6*), the Central Government shall, as soon as the certified copy of the order is received by it, make an order removing the organisation from the Schedule.

Review Committees.

37. (*1*) The Central Government shall constitute one or more Review Committees for the purposes of section 36.

(*2*) Every such Committee shall consist of a Chairperson and such other members not exceeding three and possessing such qualifications as may be prescribed.

(*3*) A Chairperson of the Committee shall be a person who is, or has been, a Judge of a High Court, who shall be appointed by the Central Government and in the case of appointment of a sitting Judge, the concurrence of the Chief Justice of the concerned High Court shall be obtained.

Offence relating to membership of a terrorist organisation.

38. (*1*) A person, who associates himself, or professes to be associated, with a terrorist organisation with intention to further its activities, commits an offence relating to membership of a terrorist organisation:

Provided that this sub-section shall not apply where the person charged is able to prove—

(*a*) that the organisation was not declared as a terrorist organisation at the time when he became a member or began to profess to be a member; and

(*b*) that he has not taken part in the activities of the organisation at any time during its inclusion in the Schedule as a terrorist organisation.

(*2*) A person, who commits the offence relating to membership of a terrorist organisation under sub-section (*1*), shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

Offence relating to support given to a terrorist organisation.

39. (*1*) A person commits the offence relating to support given to a terrorist organisation,—

(*a*) who, with intention to further the activity of a terrorist organisation,—

(*i*) invites support for the terrorist organisation, and

(*ii*) the support is not or is not restricted to provide money or other property within the meaning of section 40; or

(*b*) who, with intention to further the activity of a terrorist organisation, arranges, manages or assists in arranging or managing a meeting which he knows is—

(*i*) to support the terrorist organisation, or

(*ii*) to further the activity of the terrorist organisation, or

(*iii*) to be addressed by a person who associates or professes to be associated with the terrorist organisation; or

(*c*) who, with intention to further the activity of a terrorist organisation, addresses a meeting for the purpose of encouraging support for the terrorist organisation or to further its activity.

(*2*) A person, who commits the offence relating to support given to a terrorist organisation under sub-section (*1*) shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

Offence of raising fund for a terrorist organisation.

40. (*1*) A person commits the offence of raising fund for a terrorist organisation, who, with intention to further the activity of a terrorist organisation,—

(*a*) invites another person to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(*b*) receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(*c*) provides money or other property, and knows, or has reasonable cause to suspect, that it would or might be used for the purposes of terrorism.

Explanation.—For the purposes of this sub-section, a reference to provide money or other property includes of its being given, lent or otherwise made available, whether or not for consideration.

(*2*) A person, who commits the offence of raising fund for a terrorist organisation under sub-section (*1*), shall be punishable with imprisonment for a term not exceeding fourteen years, or with fine, or with both.

CHAPTER VII

MISCELLANEOUS

Continuance of association.

41. An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Power to delegate.

42. The Central Government may, by notification in the Official Gazette, direct that all or any of the powers which may be exercised by it under section 7, or section 8, or both, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing, direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.

Officers competent to investigate offences under Chapters IV and VI.

43. Notwithstanding anything contained in the Code, no police officer,—

(*a*) in the case of the Delhi Special Police Establishment, constituted under sub-section (*1*) of section 2 of the Delhi Special Police Establishment Act, 1946, below the rank of a Deputy Superintendent of Police or a police officer of equivalent rank; 25 of 1946.

(*b*) in the metropolitan areas of Mumbai, Kolkata, Chennai and Ahmedabad and any other metropolitan area notified as such under sub-section (*1*) of section 8 of the Code, below the rank of an Assistant Commissioner of Police;

(*c*) in any case not relatable to clause (*a*) or clause (*b*), below the rank of a Deputy Superintendent of Police or a police officer of an equivalent rank,

shall investigate any offence punishable under Chapter IV or VI.

Protection of witnesses.

44. (*1*) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held *in camera* if the court so desires.

(*2*) A court, if on an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(*3*) In particular, and without prejudice to the generality of the provisions of sub-section (*2*), the measures which a court may take under that sub-section may include—

(*a*) the holding of the proceedings at a place to be decided by the court;

(*b*) the avoiding of the mention of the name and address of the witness in its orders or judgments or in any records of the case accessible to public;

(*c*) the issuing of any directions for securing that the identity and address of the witness are not disclosed;

(*d*) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

(*4*) Any person who contravenes any decision or direction issued under sub-section (*3*) shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Cognizance of offences.

45. No court shall take cognizance of any offence—

(*i*) under Chapter III without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf;

(*ii*) under Chapters IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and where such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.

Admissibility of evidence collected through the interception of communications.

1 of 1872.

13 of 1885.
21 of 2000.

46. Notwithstanding anything contained in the Indian Evidence Act, 1872 or any other law for the time being in force, the evidence collected through the interception of wire, electronic or oral communication under the provisions of the Indian Telegraph Act, 1885 or the Information Technology Act, 2000 or any other law for the time being in force, shall be admissible as evidence against the accused in the court during the trial of a case:

Provided that the contents of any wire, electronic or oral communication intercepted or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court unless each accused has been furnished with a copy of the order of the competent authority under the aforesaid law, under which the interception was directed, not less than ten days before trial, hearing or proceeding:

Provided further that the period of ten days may be waived by the judge trying the matter, if he comes to the conclusion that it was not possible to furnish the accused with such order ten days before the trial, hearing or proceeding and that the accused shall not be prejudiced by the delay in receiving such order.

Bar of jurisdiction.

47. (*1*) Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Government or the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate, shall be called in question in any civil court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

(*2*) Notwithstanding anything contained in sub-section (*1*), no civil court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to the matters referred to in section 36.

Effect of Act and rules, etc., inconsistent with other enactments.

48. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Protection of action taken in good faith.

49. No suit, prosecution or other legal proceeding shall lie against—

(*a*) the Central Government or a State Government or any officer or authority of the Central Government or State Government or District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate or any other authority on whom powers have been conferred under this Act, for anything which is in good faith done or purported to be done in pursuance of this Act or any rule or order made thereunder; and

(*b*) any serving or retired member of the armed forces or para-military forces in respect of any action taken or purported to be taken by him in good faith, in the course of any operation directed towards combating terrorism.

Saving.

50. Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the navy, army or air force or other armed forces of the Union.

Impounding of passport and arms licence of person charge-sheeted under the Act.

51. Notwithstanding anything contained in any other law for the time being in force, the passport and the arms licence of a person, who is charge-sheeted for having committed any offence under this Act, shall be deemed to have been impounded for such period as the court may deem fit.

Power to make rules.

52. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or other association;

(*b*) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act;

(*c*) determination of the price of the forfeited property under sub-section (*2*) of section 28;

(*d*) the procedure for admission and disposal of an application under sub-section (*3*) of section 36;

(*e*) the qualifications of the members of the Review Committee under sub-section (*2*) of section 37; and

(*f*) any other matter which is required to be, or may be, prescribed.

Orders and rules to be laid before both Houses of Parliament.

53. Every order and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

THE SCHEDULE

[*See* sections 2(*1*)(*m*) and 35]

TERRORIST ORGANISATIONS

1. BABBAR KHALSA INTERNATIONAL.
2. KHALISTAN COMMANDO FORCE.
3. KHALISTAN ZINDABAD FORCE.
4. INTERNATIONAL SIKH YOUTH FEDERATION.
5. LASHKAR-E-TAIBA/PASBAN-E-AHLE HADIS.
6. JAISH-E-MOHAMMED/TAHRIK-E-FURQAN.
7. HARKAT-UL-MUJAHIDEEN/HARKAT-UL-ANSAR/HARKAT-UL-JEHAD-E-ISLAMI.
8. HIZB-UL-MUJAHIDEEN/HIZB-UL-MUJAHIDEEN PIR PANJAL REGIMENT.
9. AL-UMAR-MUJAHIDEEN.
10. JAMMU AND KASHMIR ISLAMIC FRONT.
11. UNITED LIBERATION FRONT OF ASSAM (ULFA).
12. NATIONAL DEMOCRATIC FRONT OF BODOLAND (NDFB).
13. PEOPLE'S LIBERATION ARMY (PLA).
14. UNITED NATIONAL LIBERATION FRONT (UNLF).
15. PEOPLE'S REVOLUTIONARY PARTY OF KANGLEIPAK (PREPAK).
16. KANGLEIPAK COMMUNIST PARTY (KCP).
17. KANGLEI YAOL KANBA LUP (KYKL).
18. MANIPUR PEOPLE'S LIBERATION FRONT (MPLF).
19. ALL TRIPURA TIGER FORCE.
20. NATIONAL LIBERATION FRONT OF TRIPURA.
21. LIBERATION TIGERS OF TAMIL EELAM (LTTE).
22. STUDENTS ISLAMIC MOVEMENT OF INDIA.
23. DEENDAR ANJUMAN.
24. COMMUNIST PARTY OF INDIA (MARXIST-LENINIST)—PEOPLE'S WAR, ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
25. MAOIST COMMUNIST CENTRE (MCC), ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
26. AL BADR.
27. JAMIAT-UL-MUJAHIDDEN.
28. AL-QAIDA.
29. DUKHTARAN-E-MILLAT (DEM).

30. TAMIL NADU LIBERATION ARMY (TNLA).

31. TAMIL NATIONAL RETRIEVAL TROOPS (TNRT).

32. AKHIL BHARAT NEPALI EKTA SAMAJ (ABNES).'.

Repeal and saving.

8. *(1)* The Unlawful Activities (Prevention) Amendment Ordinance, 2004 is hereby repealed. Ord. 2 of 2004.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

THE ENFORCEMENT OF SECURITY INTEREST AND RECOVERY OF DEBTS LAWS (AMENDMENT) ACT, 2004

No. 30 OF 2004

[29*th December*, 2004.]

An Act to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004.

(*2*) Save as otherwise provided in this Act, the provisions of this Act shall be deemed to have come into force on the 11th day of November, 2004.

CHAPTER II

AMENDMENTS TO THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002

Amendment of section 2.

54 of 2002.

2. In section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter in this Chapter referred to as the principal Act), in sub-section (*1*),—

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

'(*ha*) "debt" shall have the meaning assigned to it in clause (*g*) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;';

51 of 1993.

(*ii*) in clause (*j*), the words "in accordance with the directions or guidelines issued by the Reserve Bank" shall be omitted;

(*iii*) in clause (*o*), for the words "doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank", the following shall be substituted, namely:—

"doubtful or loss asset,—

(*a*) in case such bank or financial institution is administered or regulated by any authority or body established, constituted or appointed by any law for the time being in force, in accordance with the directions or guidelines relating to assets classifications issued by such authority or body;

(*b*) in any other case, in accordance with the directions or guidelines relating to assets classifications issued by the Reserve Bank;";

(*iv*) in clause (*u*), for the words "trustee or any asset management company making investment on behalf of mutual fund or provident fund or gratuity fund or pension fund", the words, brackets and figures "trustee or securitisation company or reconstruction company which has been granted a certificate of registration under sub-section (*4*) of section 3 or any asset management company making investment on behalf of mutual fund" shall be substituted;

(*v*) in clause (*zd*), for sub-clause (*ii*), the following sub-clause shall be substituted, namely:—

"(*ii*) securitisation company or reconstruction company, whether acting as such or managing a trust set up by such securitisation company or reconstruction company for the securitisation or reconstruction, as the case may be; or".

Amendment of section 3.

3. In section 3 of the principal Act, in sub-section (*3*), after clause (*g*), the following clause shall be inserted at the end, namely:—

"(*h*) that securitisation company or reconstruction company has complied with one or more conditions specified in the guidelines issued by the Reserve Bank for the said purpose.".

Amendment of section 4.

4. In section 4 of the principal Act, in sub-section (*2*),—

(*a*) the words "rejection of application for registration or" shall be omitted;

(*b*) for the words "such order of rejection or cancellation", the words "such order of cancellation" shall be substituted.

Insertion of new section 5A.

5. After section 5 of the principal Act, the following section shall be inserted, namely:—

Transfer of pending applications to any one of Debts Recovery Tribunals in certain cases.

"5A. (*1*) If any financial asset, of a borrower acquired by a securitisation company or reconstruction company, comprise of secured debts of more than one bank or financial institution for recovery of which such banks or financial institutions has filed applications before two or more Debts Recovery Tribunals, the securitisation company or reconstruction company may file an application to the Appellate Tribunal having jurisdiction over any of such Tribunals in which such applications are pending for

transfer of all pending applications to any one of the Debts Recovery Tribunals as it deems fit.

(*2*) On receipt of such application for transfer of all pending applications under sub-section (*1*), the Appellate Tribunal may, after giving the parties to the application an opportunity of being heard, pass an order for transfer of the pending applications to any one of the Debts Recovery Tribunals.

(*3*) Notwithstanding anything contained in the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, any order passed by the Appellate Tribunal under sub-section (*2*) shall be binding on all the Debts Recovery Tribunals referred to in sub-section (*1*) as if such order had been passed by the Appellate Tribunal having jurisdiction on each such Debts Recovery Tribunal. 51 of 1993.

(*4*) Any recovery certificate, issued by the Debts Recovery Tribunal to which all the pending applications are transferred under sub-section (*2*), shall be executed in accordance with the provisions contained in sub-section (*23*) of section 19 and other provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 shall, accordingly, apply to such execution.". 51 of 1993.

6. In section 7 of the principal Act,— Amendment of section 7.

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

"(*2A*) (*a*) The scheme for the purpose of offering security receipts under sub-section (*1*) or raising funds under sub-section (*2*), may be in the nature of a trust to be managed by the securitisation company or reconstruction company, and the securitisation company or reconstruction company shall hold the assets so acquired or the funds so raised for acquiring the assets, in trust for the benefit of the qualified institutional buyers holding the security receipts or from whom the funds are raised.

(*b*) The provisions of the Indian Trusts Act, 1882 shall, except in so far as they are inconsistent with the provisions of this Act, apply with respect to the trust referred to in clause (*a*) above."; 2 of 1882.

(*ii*) in sub-section (*3*), for the words "security receipts issued by such company", the words "security receipts issued under a scheme by such company" shall be substituted.

7. After section 12 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 12A.

"12A. The Reserve Bank may at any time direct a securitisation company or reconstruction company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of such securitisation company or reconstruction company (including any business or affairs with which such company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of this Act.". Power of Reserve Bank to call for statements and information.

8. In section 13 of the principal Act,— Amendment of section 13.

(*i*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) If, on receipt of the notice under sub-section (*2*), the borrower makes any representation or raises any objection, the secured creditor shall consider

such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower:

Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A.";

(*ii*) in sub-section (*4*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt:

Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt;".

Amendment of section 15.

9. In section 15 of the principal Act, in sub-section (*1*), for the words "When the management of business of a borrower is taken over by a secured creditor", the words, brackets, letters and figures "When the management of business of a borrower is taken over by a securitisation company or reconstruction company under clause (*a*) of section 9 or, as the case may be, by a secured creditor under clause (*b*) of sub-section (*4*) of section 13" shall be substituted.

Amendment of section 17.

10. In section 17 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "may prefer an appeal", the words "may make an application along with such fee, as may be prescribed," shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(*ii*) after sub-section (*1*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

"Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.";

(*iii*) after the proviso as so inserted, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under this sub-section.";

(*b*) for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (*4*) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.

(*3*) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (*4*) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management of the business to the borrower or restoration of possession of the secured assets to the borrower, it may by order, declare the recourse to any one or more measures referred to in sub-section (*4*) of section 13 taken by the secured creditors as invalid and restore the possession of the secured assets to the borrower or restore the management of the business to the borrower, as the case may be, and pass such order as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (*4*) of section 13.

(*4*) If, the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (*4*) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (*4*) of section 13 to recover his secured debt.

(*5*) Any application made under sub-section (*1*) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application:

Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (*1*).

(*6*) If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (*5*), any part to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the Appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

(*7*) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the rules made thereunder.". 51 of 1993.

11. After section 17 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 17A.

"17A. In the case of a borrower residing in the State of Jammu and Kashmir, the application under section 17 shall be made to the Court of District Judge in that State having jurisdiction over the borrower which shall pass an order on such application. Making of application to Court of District Judge in certain cases.

Explanation.—For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons shall not entitle the person (including borrower) to make an application to the Court of District Judge under this section.".

12. In section 18 of the principal Act,— Amendment of section 18.

(*a*) in sub-section (*1*),—

(*i*) for the words and figures "under section 17, may prefer an appeal", the words and figures "under section 17, may prefer an appeal along with such fee, as may be prescribed" shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(*ii*) after sub-section (*1*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

"Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:";

(*iii*) after the proviso as so inserted, the following provisos shall be inserted, namely:—

"Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso.".

Insertion of new sections 18A and 18B.

13. After section 18 of the principal Act, the following sections shall be inserted, namely:—

Validation of fees levied.

"18A. Any fee levied and collected for preferring, before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, an appeal to the Debts Recovery Tribunal or the Appellate Tribunal under this Act, shall be deemed always to have been levied and collected in accordance with law as if the amendments made to sections 17 and 18 of this Act by sections 10 and 12 of the said Act were in force at all material times.

Appeal to High Court in certain cases.

18B. Any borrower residing in the State of Jammu and Kashmir and aggrieved by any order made by the Court of District Judge under section 17A may prefer an appeal, to the High Court having jurisdiction over such Court, within thirty days from the date of receipt of the order of the Court of District Judge:

Provided that no appeal shall be preferred unless the borrower has deposited, with the Jammu and Kashmir High Court, fifty per cent. of the amount of the debt due from him as claimed by the secured creditor or determined by the Court of District Judge, whichever is less:

Provided further that the High Court may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of the debt referred to in the first proviso.".

Substitution of new section for section 19.

14. For section 19 of the principal Act, the following section shall be substituted, namely:—

Right of borrower to receive compensation and costs in certain cases.

"19. If the Debts Recovery Tribunal or the Court of District Judge, on an application made under section 17 or section 17A or the Appellate Tribunal or the High Court on an appeal preferred under section 18 or section 18A, holds that the possession of secured assets by the secured creditor is not in accordance with the provisions of this Act and rules made thereunder and directs the secured creditors to return such secured assets to the concerned borrowers, such borrower shall be entitled to the payment of such compensation and costs as may be determined by such Tribunal or Court of District Judge or Appellate Tribunal or the High Court referred to in section 18B.".

15. In section 25 of the principal Act,— Amendment of section 25.

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

"(*1A*) On receipt of intimation under sub-section (*1*), the Central Registrar shall order that a memorandum of satisfaction shall be entered in the Central Register.";

(*b*) in sub-section (*2*), for the words "The Central Registrar shall, on receipt of such intimation", the words, brackets and figures "If the concerned borrower gives an intimation to the Central Registrar for not recording the payment or satisfaction referred to in sub-section (*1*), the Central Registrar shall on receipt of such intimation" shall be substituted.

16. In section 28 of the principal Act, for the words and figures "under section 12", the words, figures and letter "under section 12 or section 12A" shall be substituted. Amendment of section 28.

17. In section 31 of the principal Act, in clause (*g*), for the words "any properties not liable to attachment", the words and brackets "any properties not liable to attachment (excluding the properties specifically charged with the debt recoverable under this Act)" shall be substituted. Amendment of section 31.

18. In section 38 of the principal Act, in sub-section (*2*), after clause (*b*), the following clauses shall be inserted, namely:— Amendment of section 38.

"(*ba*) the fee for making an application to the Debts Recovery Tribunal under sub-section (*1*) of section 17;

(*bb*) the form of making an application to the Appellate Tribunal under sub-section (*6*) of section 17;

(*bc*) the fee for preferring an appeal to the Appellate Tribunal under sub-section (*1*) of section 18;".

CHAPTER III

AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

19. In section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereafter in this Chapter referred to as the principal Act), in clause (*h*), after sub-clause (*i*), the following sub-clause shall be inserted, namely:— Amendment of section 2.
51 of 1993.

"(*ia*) the securitisation company or reconstruction company which has obtained a certificate of registration under sub-section (*4*) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;".
54 of 2002.

20. In section 19 of the principal Act, after sub-section (*1*), the following provisos shall be inserted, namely:— Amendment of section 19.

"Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, if no such action had been taken earlier under that Act:
54 of 2002.

Provided further that any application made under the first proviso for seeking permission from the Debts Recovery Tribunal to withdraw the application made under sub-section (*1*) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided also that in case the Debts Recovery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.".

CHAPTER IV

AMENDMENTS TO THE COMPANIES ACT, 1956

Amendment of section 4A.

21. In section 4A of the Companies Act, 1956 (hereafter in this Chapter referred to as the principal Act), in sub-section (*1*), clause (*vii*) shall be omitted. 1 of 1956.

Amendment of section 424A.

22. In section 424A of the principal Act, in sub-section (*1*), after the second proviso, the following provisos shall be inserted, namely:—

"Provided also that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004, such reference shall abate if the secured creditors, representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower, have taken measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002: 54 of 2002.

Provided also that no reference shall be made under this section if the secured creditors representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (*4*) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002.". 54 of 2002.

CHAPTER V

REPEAL AND SAVING

Repeal and saving.

23. *(1)* The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 is hereby repealed. 5 of 2004.

(2) Notwithstanding such repeal, anything done or any action taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 54 of 2002. 51 of 1993. 1 of 1956.

THE CONSTITUTION (NINETY-FIRST AMENDMENT) ACT, 2003

[1*st January*, 2004.]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Ninety-first Amendment) Act, 2003. Short title.

2. In article 75 of the Constitution, after clause (1), the following clauses shall be inserted, namely:— Amendment of article 75.

"(1A) The total number of Ministers, including the Prime Minister, in the Council of Ministers shall not exceed fifteen per cent. of the total number of members of the House of the People.

(1B) A member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to either House of Parliament before the expiry of such period, till the date on which he is declared elected, whichever is earlier.".

3. In article 164 of the Constitution, after clause (1), the following clauses shall be inserted, namely:— Amendment of article 164.

"(1A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent. of the total number of members of the Legislative Assembly of that State:

Provided that the number of Ministers, including the Chief Minister, in a State shall not be less than twelve:

Provided further that where the total number of Ministers, including the Chief Minister, in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent. or the number specified in the first proviso, as the case may be, then, the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date as the President may by public notification appoint.

(1B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.".

Insertion of new article 361B. Disqualification for appointment on remunerative political post.

4. After article 361A of the Constitution, the following article shall be inserted, namely:—

'361B. A member of a House belonging to any political party who is disqualified for being a member of the House under paragraph 2 of the Tenth Schedule shall also be disqualified to hold any remunerative political post for duration of the period commencing from the date of his disqalification till the date on which the term of his office as such member would expire or till the date on which he contests an election to a House and is declared elected, whichever is earlier.

Explanation.—For the purposes of this article,—

(*a*) the expression "House" has the meaning assigned to it in clause (*a*) of paragraph 1 of the Tenth Schedule;

(*b*) the expression "remunerative political post" means any office—

(*i*) under the Government of India or the Government of a State where the salary or remuneration for such office is paid out of the public revenue of the Government of India or the Government of the State, as the case may be; or

(*ii*) under a body, whether incorporated or not, which is wholly or partially owned by the Government of India or the Government of a State and the salary or remuneration for such office is paid by such body,

except where such salary or remuneration paid is compensatory in nature.'.

Amendment of the Tenth Schedule.

5. In the Tenth Schedule to the Constitution,—

(*a*) in paragraph 1, in clause (*b*), the words and figure "paragraph 3 or, as the case may be," shall be omitted;

(*b*) in paragraph 2, in sub-paragraph (1), for the words and figures "paragraphs 3, 4 and 5", the words and figures "paragraphs 4 and 5" shall be substituted;

(*c*) paragraph 3 shall be omitted.

THE CONSTITUTION (NINETY-SECOND AMENDMENT) ACT, 2003

[*7th January*, 2004.]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Ninety-second Amendment) Act, 2003. **Short title.**

2. In the Eighth Schedule to the Constitution,— **Amendment of Eighth Schedule.**

(*a*) existing entry 3 shall be re-numbered as entry 5, and before entry 5 as so re-numbered, the following entries shall be inserted, namely:—

"3. Bodo.

4. Dogri.";

(*b*) existing entries 4 to 7 shall respectively be re-numbered as entries 6 to 9;

(*c*) existing entry 8 shall be re-numbered as entry 11 and before entry 11 as so re-numbered, the following entry shall be inserted, namely:—

"10. Maithili.";

(*d*) existing entries 9 to 14 shall respectively be re-numbered as entries 12 to 17;

(*e*) existing entry 15 shall be re-numbered as entry 19 and before entry 19 as so re-numbered, the following entry shall be inserted, namely:—

"18. Santhali.";

(*f*) existing entries 16 to 18 shall respectively be re-numbered as entries 20 to 22.

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