NOTES ON CLAUSES

Clause 2 read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2022-23. Further, it lays down the rates at which tax is to be deducted at source during the financial year under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from, or paid on, income chargeable under the head "salaries" and tax is to be calculated and charged in special cases for the financial year 2022-23.

Clause 3 seeks to amend section 2 of the Income-tax Act relating to definitions.

Clause (42C) of the said section defines the expression "slump sale" as the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

It is proposed to amend the said clause to substitute the word "sales", with the word "transfer".

This amendment will take effect retrospectively from 1st April, 2021 and, will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

It is further proposed to insert a new clause (47A) to the said section to define the expression "virtual digital asset" to mean,—

(a) any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme and can be transferred, stored or traded electronically;

(b) a non-fungible token or any other token of similar nature by whatever name called;

(c) any other digital asset as may be notified by the Central Government in the Official Gazette in this behalf,

It is further proposed to provide that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

It is also proposed to define certain expressions for the purposes of the said clause.

These amendments will take effect from 1st April, 2022.

Clause 4 seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Clause (4E) of the said section provides exemption to any income accrued or arisen to, or received by a non-resident as a result of transfer of non-deliverable forwards contracts entered into with an Offshore Banking Unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be provided by rules.

It is proposed to amend the said clause so as to provide that exemption under the said clause (4E) shall also be applicable to the income accrued or arisen to, or received by a non-resident as a result of transfer of offshore derivative instruments or over-the-counter derivatives entered into with an Offshore Banking Unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be provided by rules.

Clause (4F) of the said section provides exemption to any income of a non-resident by way of royalty or interest, on account of lease of an aircraft in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before 31st March, 2024.

It is proposed to amend the said clause to extend the said exemption to any income of a non-resident by way of royalty or interest, on account of lease of a "ship" paid by a unit of an International Financial Services Centre also.

It is further proposed to substitute the *Explanation* to the said clause to include the definition of the term "ship" therein.

It is also proposed to insert a new clause (4G) to the said section so as to provide exemption to any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an Offshore Banking Unit, in any International Financial Services Centre as referred to in sub-section (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

It is also proposed to define the expression "portfolio manager" to have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation (2) of the International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019.

Clause (8) of the said section provides exemption to the income and remuneration of an individual who is assigned duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered by the Central Government and the Government of a foreign state (the terms thereof provide for the exemption given by this clause). Both the remuneration received by the individual from the foreign state and any other income accruing or arising outside India, and is not deemed to accrue or arise in India, are exempt under the said clause in certain cases.

Clause (8A) of the said section, *inter alia*, provides exemption on the remuneration or fee received by certain consultants, directly or indirectly out of the funds made available to an international organisation (agency) under a technical assistance grant agreement between the agency and the Government of a foreign state. The said clause further provides exemption to any income accruing or arising outside India (which does not accrue or arise in India) in respect of which the consultant is required to pay income or social security tax to the Government of the country or the country of his or its origin.

Clause (8B) of the said section, *inter alia,* provides exemption to an individual who is an employee of the consultant as referred to in clause (8A), and who is assigned duties in India in connection with a technical assistance programme and project in accordance with an agreement entered into by the Central Government and the agency subject to certain conditions. The said clause further provides exemption to any income accruing or arising outside India (which does not accrue or arise in India) in respect of which the consultant is required to pay income or social security tax to the country of his origin.

Clause (9) of the said section exempts the income of the family members of any individual or consultant as referred in clauses (8), (8A) and (8B), who accompany such individual or consultant to India, if the income does not accrue or arise in India and in respect of which such member is required to pay income and social security tax to the Government of foreign state or country of origin of such member.

It is proposed to insert provisos in clauses (8), (8A), (8B) and (9) of the said section so as to provide that the provisions of the said clauses shall not apply in respect of remuneration, fee and income, as the case may be, referred to in those clauses, of the previous year relevant to the assessment year beginning on or after the 1st April, 2023 and subsequent assessment years.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause (23C) of the said section provides for exemption to the income of certain entities.

Sub-clauses (iv), (v), (vi) and (via) of clause (23C) of said section provide exemption to the income received by any person on behalf of any fund or trust or institution or university or other educational institutions or hospital or other institutions which may be approved by a prescribed authority.

It is proposed to amend the said sub-clauses so as to substitute the reference of "prescribed authority" with the "Principal Commissioner or Commissioner".

This amendment will take effect from 1st April, 2022.

Third proviso of clause (23C), *inter-alia*, provides that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, as is referred to in sub-clauses (iv), (v), (vi) and (via) of the said clause, shall apply at least eighty-five per cent. of its income, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent. of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent. of its income shall in no case exceed five years. It also provides that it shall invest or deposit its funds in specified modes.

Explanation 1 to the said third proviso provides that the income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11, maintained specifically for such corpus.

It is proposed to insert a new *Explanation* 1A to the said third proviso so as to provide that where the property held under a trust or institution referred to in sub-clause (v) includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as a voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of corpus of that trust or institution, subject to the condition that the fund or trust or institution—

(a) applies such corpus only for the purpose for which the voluntary contribution was made; and

(b) does not apply such corpus for making contribution or donation to any person;

(c) maintains such corpus as separately identifiable; and

(d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

It is further proposed to insert *Explanation* 1B to the said third proviso to provide that for the purposes of the proposed *Explanation* 1A where any trust or institution referred to in sub-clause (v) has treated any sum received by it as forming part of the corpus, under *Explanation* 1A, and subsequently any of the conditions specified in clause (a) or clause (b) or clause (c) or clause (d) thereof are violated, such sum shall be deemed to be the income of such fund or trust or institution or university or other educational institution or hospital or other medical institution of the previous year during which the violation takes place.

These amendments will take effect retrospectively from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

It is also proposed to insert *Explanation* 3 to the said third proviso of the said clause so as to provide that for the purposes of determining the amount of application under said proviso, where eighty-five per cent. of the income referred to in clause (a) of that proviso, is not applied wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established, during the previous year but is accumulated or set apart, either in whole or in part, for application to such objects, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, if the following conditions are complied with,—

(a) such person furnishes a statement in the form and manner as may be provided by rules to the Assessing Officer stating the purpose for which the income is being

accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11; and

(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year.

It is also proposed to insert a proviso to the said *Explanation* 3 to provide that in computing the period of five years during which accumulation of income is allowed, the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

It is also proposed to insert a new *Explanation* 4 to the said third proviso of the said clause to provide that any income referred to in *Explanation* 3, which—

(a) is applied for purposes other than wholly and exclusively to the objects for which the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established or ceases to be accumulated or set apart for application thereto; or

(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11; or

(c) is not utilised for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of *Explanation* 3; or

(d) is credited or paid to any trust or institution registered under section 12AA or section 12AB or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via),

shall be deemed to be the income of such person of the previous year–

(i) in which it is so applied or ceases to be so accumulated or set apart under clause (a); or

(ii) in which it ceases to remain so invested or deposited under clause (b); or

(iii) being the last previous year of the period, for which the income is accumulated or set apart under clause (a) of *Explanation* 3, but not utilised for the purpose for which it is so accumulated or set apart under clause (c); or

(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution under clause (d).

It is also proposed to insert a new *Explanation* 5 to the said third proviso so as to provide that notwithstanding anything contained in *Explanation* 4, where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of *Explanation* 3, as inserted, cannot be applied for the purpose for which it was accumulated or set apart, the Assessing Officer may, on an application made to him in this behalf, allow such person to apply that income

for such other purpose in India as is specified in the application by such person and as is in conformity with the objects for which the fund or institution or trust or any university or other educational institution or any hospital or medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is established; and thereupon the provisions of *Explanation* 4 shall apply as if the purpose specified by that person in the application under the said *Explanation* were a purpose specified in the notice given to the Assessing Officer under clause (a) of *Explanation* 3.

It is also proposed to insert a proviso to *Explanation* 5 so as to provide that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of *Explanation* 4.

It is also proposed to substitute the tenth proviso to the said clause (23C) so as to provide that where the total income of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, in addition to getting its books of accounts audited shall also, keep and maintain books of account and other documents in such form and manner and at such place, as may be provided by rules.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

It is proposed to substitute the fifteenth proviso to the said clause (23C) so as to provide that where the fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) is approved under the said clause and subsequently the Principal Commissioner or Commissioner, has noticed occurrence of one or more specified violations during any previous year, or has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year; or such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year, the Principal Commissioner or Commissioner shall—

(i) call for such documents or information from the fund or institution or trust or any university or other educational institution or any hospital or other medical institution or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;

(ii) pass an order in writing cancelling the approval of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution, on or before the specified date, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violation has taken place;

(iii) pass an order in writing refusing to cancel the approval of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution, on or before the specified date, if he is not satisfied about the occurrence of one or more specified violations;

(iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

It also proposed to insert a new *Explanation* 1 to the fifteenth proviso of the said clause (23C) to provide that for the purposes of the said proviso, the expression "specified date" shall mean the day on which the period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) expires.

It is also proposed to insert a new *Explanation* 2 to the said fifteenth proviso to provide that for the purposes of the said proviso, the following shall mean "specified violation"—

(a) where any income of the fund or trust or institution or any university or other educational institution or any hospital or other institution, which has been applied other than for the objects for which it is established; or

(b) the fund or institution or trust or any university or other educational institution or any hospital or other institution has income from profits and gains of business, which is not incidental to the attainment of its objectives or separate books of account are not maintained by it in respect of the business which is incidental to the attainment of its objectives; or

(c) any activity of the fund or institution or trust or any university or other educational institution or any hospital or other medical institution—

(A) is not genuine; or

(B) is not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or

(d) the fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

It is also proposed to insert a new *Explanation* 3 to the said fifteenth proviso so as to provide that for the purposes of clause (b) of the said proviso, where the Assessing Officer has intimated the Central Government or the prescribed authority, under the first proviso of sub-section (3) of section 143, about the contravention of the provisions of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of this clause by any fund or institution or trust or university or other educational institution or any hospital or other medical institution, in respect of an assessment year, and the approval granted to such fund or institution or trust or university or other educational institution or any hospital other medical institution has not been withdrawn or the notification issued in its case has not been rescinded, on or before the 31st day of March, 2022, such intimation shall be deemed to be a reference received, by the Principal Commissioner or Commissioner as on the 1st day of April, 2022, and the provisions of clause (b) of the second proviso to sub-section (3) of section 143 shall apply accordingly for such assessment year.

It is proposed to substitute the nineteenth proviso of the said clause (23C) so as to substitute the reference of the expression "prescribed authority" with "Principal Commissioner or Commissioner". It is also proposed to remove the reference of the

notification by the Central Government in case of the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v).

These amendments will take effect from 1st April, 2022.

It is proposed to insert a new twentieth proviso to the said clause (23C) so as to provide that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139, within the time allowed under that section.

It is also proposed to insert a new twenty-first proviso to the said clause (23C) so as to provide that where the income or part of income or property of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), or any part of the such income, has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall, after taking in to account the provisions of sub-section (2), (4) and (6) of the said section, be deemed to be income of such person of the previous year in which it is so applied.

It is also proposed to insert a new twenty-second proviso to the said clause (23C) so as to provide that where any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) violates the conditions specified under the tenth or twentieth proviso, or where the provisions of the eighteenth proviso are applicable, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution, subject to fulfilment of the following conditions, namely:–

(a) such expenditure is not from the corpus standing to the credit of the fund or institution or trust or the university or other educational institution or the hospital or other medical institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;

(b) such expenditure is not from any loan or borrowing;

(c) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and

(d) such expenditure is not in the form of any contribution or donation to any person.

It is also proposed to insert an *Explanation* to the said twenty-second proviso to provide that for the purposes of determining the amount of expenditure under the said proviso, the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

It is also proposed to insert a new twenty-third proviso to the said clause (23C) so as to provide that for the purposes of computing income chargeable to tax under twenty second proviso, no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

It is also proposed to insert *Explanation* 3 to the said clause (23C) so as to provide that for the purposes of this clause, any sum payable by any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall be considered as application of income during the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution according to the method of accounting regularly employed by it).

It is also proposed to insert a proviso to the said *Explanation* so as to provide that where during any previous year any sum has been claimed to have been applied by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution, such sum shall not be allowed as application in any subsequent previous year.

These amendments will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

Clause 5 seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes.

Clause (d) of sub-section (1) of the said section provides that subject to the provisions of sections 60 to 63, income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution, subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) maintained specifically for such corpus, shall not be included in the total income of the previous year of the person in receipt of the income.

It is proposed to insert a new *Explanation* 3A to sub-section (1) to provide that where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution—

(a) applies such corpus only for the purpose for which the voluntary contribution was made;

(b) does not apply such corpus for making contribution or donation to any person;
(c) maintains such corpus as separately identifiable; and
(d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

It is also proposed to insert a new *Explanation* 3B to the said sub-section (1) to provide that for the proposed *Explanation* 3A where any trust or institution has treated any sum received by it as forming part of the corpus and subsequently any of the conditions

mentioned in clause (a) or clause (b) or clause (c) or clause (d) *of the said Explanation* is violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

These amendments will take effect retrospectively from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

Sub-section (3) of said section provides that where the trust or institution has accumulated any income under sub-section (2), and violates any of the conditions provided under sub-section (2), such income shall be deemed to be the income of the trust or institution as per the provisions of sub-section (3).

It is proposed to amend the said sub-section (3) to substitute its longline so as to provide that where the income referred to in sub-section (2) is applied or ceases to remain invested or not utilised or credited or paid as specified therein, the same shall be deemed to be the income of such person of the previous year–

(i) in which it is so applied or ceases to be so accumulated or set apart,; or
(ii) in which it ceases to remain so invested or deposited; or
(iii) being the last previous year of the period, for which the income is accumulated or set apart under clause (a) of sub-section (2), but not utilised for the purpose for which it is so accumulated or set apart; or
(iv) in which it is credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

It is also proposed to insert an *Explanation* to the said section so as to provide that for the purposes of this section, any sum payable by any trust or institution shall be considered as application of income in the previous year in which such sum is actually paid by it (irrespective of the previous year in which the liability to pay such sum was incurred by the trust or institution according to the method of accounting regularly employed by it).

It is further proposed to insert a proviso to the said *Explanation* to provide that where during any previous year any sum has been claimed to have been applied by the trust or institution, such sum shall not be allowed as application in any subsequent previous year .

These amendments will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

Clause 6 seeks to amend section 12A of the Income-tax Act relating to conditions for applicability of sections 11 and 12.

Clause (b) of sub-section (1) of the said section 12A provides that the provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless, *inter-alia*, where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts

of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be provided by rules.

It is proposed to substitute the said clause so as to provide that in addition to the condition requiring the trust or institutions, having income exceeding the maximum amount not chargeable to tax, to get their accounts audited, such trusts shall also be required to keep and maintain books of account and other documents in such form and manner and at such place, as may be provided by rules.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 7 seeks to amend section 12AB of the Income-tax Act relating to procedure for fresh registration.

Sub-sections (4) and (5) of the said section contains provisions regarding cancellation of the registration granted to a trust or institution.

It is proposed to substitute sub-section (4) of the said section to provide that where registration or provisional registration of a trust or an institution has been granted under clause (a) or clause (b) or clause (c) of sub-section (1) or clause (b) of sub-section (1) of section 12AA, as the case may be, and subsequently,—

(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year; or

(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under second proviso to sub-section (3) of section 143 for any previous year; or

(c) such case has been selected in accordance with the risk management strategy formulated by the Board from time to time for any previous year,

the Principal Commissioner or Commissioner shall—

(i) call for such documents or information from the trust or institution, or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(ii) pass an order in writing, cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violations have taken place;

(iii) pass an order in writing, refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violations;

(iv) forward a copy of the order under clause (ii) or clause (iii), as the case may be, to the Assessing Officer and such trust or institution.

It is further proposed to insert a new *Explanation* to the said sub-section so as to provide that the following shall mean "specified violation" means—

(a) where any income derived from property held under trust, wholly or in part for charitable or religious purposes, has been applied, other than for the objects of the trust or institution; or

(b) the trust or institution has income from profits and gains of business which is not incidental to the attainment of its objectives or separate books of account are not maintained by such trust or institution in respect of the business which is incidental to the attainment of its objectives; or

(c) the trust or institution has applied any part of its income from the property held under a trust for private religious purposes which does not enure for the benefit of the public; or

(d) the trust or institution established for charitable purpose created or established after the commencement of this Act, has applied any part of its income for the benefit of any particular religious community or caste; or

(e) any activity being carried out by the trust or the institution—

(i) is not genuine; or

(ii) is not being carried out in accordance with all or any of the conditions subject to which it was registered; or

(f) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality.

It is also proposed to substitute sub-section (5) of the said section to provide that the order under clause (ii) or clause (iii) of sub-section (4), as the case may be, shall be passed before the expiry of a period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry under clause (i) of sub-section (4).

These amendments will take effect from 1st April, 2022.

Clause 8 seeks to amend section 13 of the Income-tax Act relating to section 11 not to apply in certain cases.

Sub-section (1) of section 13 provides for cases wherein the provisions of section 11 or section 12 shall cease to operate, so as to exclude from the total income of the previous year of the trusts or institutions in receipt of such income.

Clause (c) of said sub-section provides that provisions of section 11 or section 12 shall cease to operate where certain benefits have been passed on by the trust or institution to specified persons.

It is proposed to amend the said clause (c) so as to provide that the part of income, as referred to in said clause, which enures or is used or applied directly or indirectly for the benefit of any person referred to in sub-section (3) of the said section, such part of income shall not be excluded from the total income of the trust or institution in receipt of such income.

Clause (d) of said sub- section provides that the provisions of section 11 or section 12 shall cease to operate unless the funds of the trust or institution are invested or deposited in specified modes.

It is further proposed to amend the said clause (d) so as to provide that, in case any funds of the trust or institution are invested or deposited in any one or more forms other than specified modes, then income to the extent of such deposits or investments, shall not be excluded from the total income of the trust or institution in receipt of such income.

It is also proposed to insert a new sub-section (10) to the said section so as to provide that where the provisions of sub-section (8) are applicable to any trust or institution or it violates the conditions specified under clause (b) or clause (ba) of sub-section (1) of section 12A, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:—

(a) such expenditure is not from the corpus standing to the credit of the trust or institution as on the end of the financial year immediately preceding the previous year relevant to the assessment year for which income is being computed;

(b) such expenditure is not from any loan or borrowing;

(c) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and

(d) such expenditure is not in the form of any contribution or donation to any person.

It is also proposed to insert a new *Explanation* in the said sub-section (10) to provide that for the purposes of determining the amount of expenditure under this sub-section, the provisions of sub-clause (*ia*) of clause (*a*) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

It is also proposed to insert a new sub-section (11) to the said section so as to provide that for the purposes of computing income chargeable to tax under sub-section (10), no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of this Act.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 9 seeks to amend section 14A of the Income-tax Act relating to expenditure incurred in relation to income not includible in total income.

The said section, *inter-alia*, provides that no deduction shall be allowed in relation to income which does not form part of the total income under the Income-tax Act.

It is proposed to amend sub-section (1) of the said section to provide that notwithstanding anything to the contrary contained in this Act, for the purpose of computing the total income, no deduction shall be allowable in respect of expenditure incurred in relation to income which does not form part of the total income.

This amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

It is also proposed to insert an *Explanation* to the said section to clarify that notwithstanding anything to the contrary contained in this Act, the provisions of the said section shall apply and shall be deemed to have been always applied in a case where the income, not forming part of the total income, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not form part of the total income.

This amendment will take effect from 1st April, 2022.

Clause 10 seeks to amend section 17 of the Income-tax Act relating to definition of "salary", "perquisite" and "profits in lieu of salary".

Clause (2) of the said section, *inter alia*, provides the definition of the term "perquisite" and proviso to the said clause provides certain exclusions which shall not be part of "perquisite".

Clause (ii) of the said proviso provides that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in certain specified cases shall not be part of perquisite.

It is proposed to amend the said clause (ii) to insert a new sub-clause to provide that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be forming part of "perquisite".

This amendment will take effect retrospectively from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

Clause 11 seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

Sub-section (1A) of said section provides that the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) of the said section, shall not be entitled to deduction as provided under sub-section (1), unless such research association, university, college or other institution or company, inter-alia, prepares a statement, setting forth such particulars and furnishes to the donor, a certificate specifying the amount of donation in the manner specified therein.

It is proposed to amend the said sub-section so as to provide that the deduction in respect of any sum paid to the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) shall not be allowed unless such research association, university, college or such other institution or company, inter-alia, prepares a statement, setting forth such particulars and furnishes to the donor, a certificate specifying the amount of donation in the manner specified therein.

This amendment will take effect retrospectively from 1st April, 2021.

Clause 12 seeks to amend section 37 of the Income-tax Act relating to General allowability of expenditure.

The said section provides for general allowability of expenditure laid out or expended wholly and exclusively for the purpose of business or profession.

Explanation 1 of sub-section (1) of the said section provides that if any expenditure is incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

It is proposed to insert a new *Explanation* 3 to the said sub-section to further clarify that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" under *Explanation* 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee,—

(i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or

(ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or

(iii) to compound an offence under any law for the time being in force, in India or outside India.

This amendment will take effect from 1st April, 2022.

Clause 13 seeks to amend section 40 of the Income-tax Act relating to amounts not deductible.

Sub-clause (ii) of clause (a) of the said section provides that any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains shall not be deducted in computing the income chargeable under the head "profits and gains of business or profession".

It is proposed to insert a new *Explanation* 3 to sub-clause (ii) of clause (a) of the said section to clarify that for the purposes of sub-clause (ii), the term "tax" shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.

This amendment will take effect retrospectively from 1st April, 2005 and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent assessment years.

Clause 14 seeks to amend section 43B of the Income-tax Act relating to certain deductions to be allowed only on actual payment.

Explanations 3C, 3CA and 3D of the said section provide that a deduction of any sum, being interest payable under clauses (*d*), (*da*), and (*e*) of the said section, shall be allowed if such interest has been actually paid and any interest referred to in the said clauses which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.

It is proposed to amend the said *Explanations* 3C, 3CA and 3D of the said section to provide that conversion of interest payable under clauses (*d*), (*da*), and (*e*) of the said section, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 15 seeks to amend section 50 of the Income-tax Act relating to special provision for computation of capital gains in case of depreciable assets.

The said section provides for certain modification in the applicability of the provisions of sections 48 and 49 for computation of capital gains in case of depreciable assets where the capital asset is an asset forming part of a block of asset in respect of which depreciation has been allowed under this Act.

Proviso to the said section provides that in a case where goodwill of a business or profession forms part of a block of assets for the assessment year beginning of the 1st day of April, 2020 and depreciation thereon has been obtained by the assessee under the Income-tax Act, the written down value of that block of asset and short term capital gain if any, shall be determined in such manner as may be provided by rules.

It is proposed to amend section 50 to insert an *Explanation* to clarify that for the purposes of the said section 50, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43 shall be deemed to be transfer.

This amendment will take effect retrospectively from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

Clause 16 seeks to amend section 56 of the Income-tax Act relating to income from other sources.

Sub-section (2) of the said section provides that certain incomes as provided therein shall be chargeable to income-tax under the head "Income from other sources" without prejudice to the generality of the provisions of sub-section (1) thereof.

Clause (viib) of the said-sub-section provides that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable under the head of Income-from other sources.

The first proviso to said clause (viib) provides that the provisions of the said clause shall not apply, where the consideration for issue of shares is received by a venture capital undertaking from, *inter-alia*, a specified fund.

Explanation to the said clause provides the definition of "specified fund" as a Category I or a Category II Alternative Investment Fund which is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992.

It is proposed to amend the said *Explanation* to clause (viib) to provide that "specified fund" shall also include Category I or a Category II Alternative Investment Fund which is regulated under the International Financial Services Centres Authority Act, 2019.

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

The existing provisions of clause (x) of sub-section (2) of the said section of the Income-tax Act, 1961 (the Act) *inter alia*, provides that where any person receives, in any previous year, from any person or persons any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum shall be the income of the person receiving such sum.

Proviso to the said clause provides for certain exclusions which shall not be part of the income specified in the clause.

It is proposed to amend the said proviso to insert two new clauses (XII) and (XIII) so as to provide that–

(i) any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person;

(ii) any sum of money received by a member of the family of a deceased person, from the employer of the deceased person, or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees,

where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.

It is also proposed to insert an *Explanation* to provide that for the purpose of both of the said clauses (XII) and (XIII) of this proviso, "family" in relation to an individual shall have the same meaning as assigned to in the *Explanation 1* to clause (5) of section 10.

This amendment will take effect retrospectively from 1st April, 2020 and shall accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

Explanation to clause (x) of the said sub-section provides that for the purposes of the said clause, the expressions "assessable", "fair market value", "jewellery", "property", "relative" and "stamp duty value shall have the same meanings as respectively assigned to them in the *Explanation* to clause (vii).

It is proposed to amend the said *Explanation* to include the definition of the expression "property" to have the same meaning as assigned to it in clause (d) of the *Explanation* to clause (vii) and shall include virtual digital asset.

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 17 seeks to amend section 68 of the Income-tax Act relating to cash credits.

The provisions of the said section provide that where any sum is found to be credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

It is proposed to insert a new proviso to the said section to provide that where the sum so credited consists of loan or borrowing or any such amount by whatever name called, any explanation offered by the assessee shall be deemed to be not satisfactory unless (a) the person in whose name such credit is recorded in the books of the assessee also offers an explanation about the nature and source of such sum so credited, and (b) such explanation

in the opinion of the Assessing Officer has been found to be satisfactory and consequential amendments in the other provisos.

These amendments will take effect from 1st April, 2023, and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 18 seeks to amend section 79 of the Income-tax Act relating to carry forward and set off of losses in case of certain companies.

Sub-section (1) of the said section, i*nter alia*, provides that where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of year or years in which the loss was incurred.

Sub-section (2) of the said section provides certain circumstances in which the provisions of sub-section (1) shall not apply.

It is proposed to amend the said sub-section (2) by inserting a new clause (f) to provide that nothing in sub-section (1) shall apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty-one per cent. of the voting power of the erstwhile public sector company in aggregate.

It is further proposed to insert a new sub-section (3) in the said section to provide that notwithstanding anything contained in sub-section (2), if the condition specified in clause (f) of the said sub-section is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.

It is also proposed to amend the *Explanation*, *inter alia*, to insert the definition of the expressions “erstwhile public sector company”, and “strategic disinvestment”.

These amendments will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

Clause 19 seeks to insert a new section 79A of the Income tax Act, relating to no set off of losses consequent to search, requisition and survey.

The proposed new section seeks to provide that notwithstanding anything contained in the Act, no set off of losses brought forward, or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 shall be allowed to an assessee while computing his total income in any previous year which includes undisclosed income –

(i) that is found in the course of a search under section 132 or a requisition under section 132A or a survey under section 133A, other than under sub-section (2A) of

that section, or

(ii) that is represented, either wholly or partly, by any entry in the books of account in respect of an expense or other documents maintained in the normal course relating to the previous year which is found to be false and would not have been found to be so, had the search not been initiated or the survey not been conducted or the requisition not been made.

The proposed new section further seeks to define the expression "undisclosed income" for the purposes of the said section.

This amendment will take effect from lst April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

Clause 20 seeks to amend section 80 CCD of the Income-tax Act relating to deduction in respect of contribution to pension scheme of the Central Government.

Sub-section (2) of the said section, *inter alia*, provides that in respect of any contribution made by the Central Government or any other employer to the account of the employee under a notified pension scheme, 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 it does not exceed fourteen per cent. or any other employer as it does not exceed ten per cent. of his salary in the previous year.

It is proposed to amend the said sub-section so as to provide that the deduction under the said section shall be allowed to the assessee, in respect of any contribution made by the State Government also to the account of the employee under a notified pension scheme, of the whole of the amount contributed by the State Government as it does not exceed fourteen per cent. of his salary in the previous year.

This amendment will take effect retrospectively from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

Clause 21 seeks to amend section 80DD of the Income-tax Act relating to deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

The provisions of the said section, *inter alia*, provide for a deduction to an individual or Hindu undivided family, who is a resident in India, in respect of expenditure incurred for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or amount paid to Life Insurance Company or any other insurer or administrator or specified company, in respect of a scheme for the maintenance of a disabled dependant.

Sub-section (2) of the said section provides that deduction shall be allowed only if the payment of annuity or lump sum amount has been made for the benefit of the dependant, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made and

the assessee nominates either the dependant or any other person to receive the payment on his behalf for the benefit of the dependant, being a person with disability.

Sub-section (3) of the said section provides that if the dependant with disability, predeceases the individual or the member of the Hindu undivided family, the amount deposited in such scheme shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

It is proposed to substitute clause (a) of sub-section (2) of the said section so as to provide that the deduction under clause (b) of sub-section (1) of the said section shall be allowed if the scheme provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made; or on his attaining the age of sixty years or more or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued.

Further, it is proposed to insert a new sub-section (3A) to provide that the provisions of sub-section (3) shall not apply to the amount received by the dependant, being a person with disability, before his death, by way of annuity or lump sum by application of the condition referred to in the proposed sub-clause (ii) of clause (a) of sub-section (2).

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 22 seeks to amend section 80-IAC of the Income-tax Act relating to special provision in respect of specified business.

The provisions of the said section, *inter alia*, provide for a deduction of an amount equal to one hundred per cent. of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years, beginning from the year of incorporation, at the option of the assesses subject to the condition that,—

(i) the total turnover of its business does not exceed one hundred crore rupees;

(ii) it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification; and

(iii) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April 2022.

It is proposed to amend sub-clause (a) of clause (ii) of the *Explanation* occurring after sub-section (4) of the said section so as to extend the period of incorporation of eligible start-ups to the 1st day of April, 2023.

This amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years**.**

Clause 23 seeks to amend section 80LA of the Income-tax Act relating to deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre.

Sub-section (1A) of the said section, *inter-alia*, provides that where the gross total income of an assessee, being a Unit of an International Financial Services Centre, includes any income referred to in sub-section (2) of the said section, there shall be allowed, in accordance with and subject to the provisions of that section, a deduction from such income, of an amount equal to one hundred per cent. of such income for any ten consecutive assessment years, at the option of the assessee, out of fifteen years, beginning with the assessment year relevant to the previous year in which the permission, under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other relevant law was obtained.

Sub-section (2) of the said section specifies the incomes which are eligible for deduction, *inter-alia*, under the said sub-section (1A).

It is proposed to amend clause (d) of sub-section (2) of the said section to provide that the income arising from the transfer of an asset, being a ship which was leased by an unit of the International Financial Services Centre to a person, subject to the condition that the unit has commenced operation on or before the 31st day of March, 2024 shall also be eligible for deduction under the said sub-section (1A).

It is further proposed to amend the *Explanation* to the said clause (d) so as to provide that the term "ship" shall have the same meaning as provided in clause (4F) of section 10 of the Act.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 24 seeks to amend section 92CA of the Income-tax Act relating to Reference to Transfer Pricing Officer.

The said section, *inter alia*, empowers the Central Government to notify a scheme for the purposes of determination of the arm's length price so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the Transfer Pricing Officer and the assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a team-based determination of arm's length price with dynamic jurisdiction.

Sub-section (9) of the said section further provides that for the purposes of giving effect to the aforesaid scheme, the Central Government may by notification in the Official Gazette direct that any of the provisions of the Act shall not apply or shall apply with such

exceptions, modifications and adaptations as may be specified.

It is proposed to amend the proviso to the said sub-section (9), extending the date for issuing directions for the purposes of the said sub-section from 31st day of March, 2022 to 31st day of March, 2024.

This amendment will take effect from 1st April, 2022.

Clause 25 seeks to amend section 94 of the Income-tax Act relating to avoidance of tax by certain transactions in securities.

It is proposed to amend sub-section (8) of said section so as to provide that the provisions of the said sub-section shall also be applicable to securities.

It is further proposed to substitute clause (aa) of the *Explanation* to the said section, so as to substitute the definition of the expression "record date" to mean such date as may be fixed by a company, or a Mutual Fund or the Administrator of the specified undertaking or the specified company referred to in the *Explanation* to clause (*35*) of section 10; or a business trust as defined in clause (13A) of section 2; or an Alternative Investment Fund as defined in clause (b) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992, for the purposes of entitlement of the holder of the securities or units, as the case may be, to receive dividend, income, or additional securities or unit without any consideration, as the case may be.

It is also proposed to amend clause (d) of the aforesaid, *Explanation* to amend the definition of the term “unit”.

These amendments will take effect from the 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 26 seeks to amend section 115BAB of the Income-tax Act relating to tax on income of new manufacturing domestic companies.

Sub-section (2) of the said section specifies the conditions which a domestic company needs to satisfy to be eligible to be taxed under this section.

Clause (a) of sub-section (2) of the said section requires that the domestic company should be set-up and registered on or after the 1st day of October, 2019, and should have commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023.

It is proposed to amend the said clause so as to extend the date of commencement of manufacturing or production of an article or thing from 31st March, 2023 to 31st March, 2024.

This amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

Clause 27 seeks to amend section 115BBD of the Income-tax Act relating to tax on certain dividends received from foreign companies.

The said section, *inter-alia*, provides that in case of an Indian company whose total income includes any income by way of dividends declared, distributed or paid by a foreign company, in which the said Indian company holds twenty-six per cent. or more in nominal value of the equity share capital, such dividend income shall be taxed at the rate of fifteen per cent.

It is proposed to insert a new sub-section (4) to provide that the provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023.

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 28 seeks to insert new section 115BBH relating to tax on income from virtual digital assets and new section 115BBI relating to specified income of certain institutions.

Sub-section (1) of the proposed new section 115BBH seeks to provide that where the total income of an assessee includes any income from the transfer of any virtual digital asset, the income-tax payable shall be the aggregate of—

(a) the amount of income-tax calculated on the income from transfer of such virtual digital asset at the rate of thirty per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the income referred to in clause (a).

Sub-section (2) of the said section seeks to provide that notwithstanding anything contained in any other provision of the Act,—

(a) no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act in computing the income referred to in clause (a) of sub-section (1); and

(b) no set off of loss from transfer of the virtual digital asset computed under clause (a) of sub-section (1) shall be allowed against income computed under any other provision of the Act to the assessee and such loss shall not be allowed to be carried forward to succeeding assessment years.

Sub-section (1) of the proposed new section 115BBI provides that where the total income of an assessee, being a person in receipt of income on behalf of any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in sub-clause (*vi*) or any hospital or other medical institution referred to in sub-clause (*via*), of clause (*23C*) of section 10 or any trust or institution referred to in section 11, includes any income by way of any specified income, the income-tax payable shall be the aggregate of—

(i) the amount of income-tax calculated at the rate of thirty per cent. on the aggregate of such specified income; and

(ii) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of specified income referred to in clause (i).

Sub-section (2) of the said section provides that no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act in computing the specified income referred to in clause (i) of sub-section (1).

The *Explanation* to the said sub-section provides that "specified income" means—

(a) income accumulated or set apart in excess of fifteen percent of the income where such accumulation is not allowed under any specific provisions of the Act; or

(b) deemed income referred to in *Explanation* 4 to third proviso to clause (23C) of section 10 or sub-section (1B) or (3) of section 11; or

(c) any income which is not exempt under clause (23C) of section 10 on account of violation of the provisions of clause (b) of the third proviso of clause (23C) of section 10, or not to be excluded from the total income under the provisions of clause (d) of sub-section (1) of section 13; or

(d) any income which is deemed to be income under the twenty-first proviso to clause (23C) of section 10 or which is not excluded from the total income under clause (c) of sub-section (1) of section 13; or

(e) any income which is not excluded from the total income under clause (c) of sub-section (1) of section 11.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 29 seeks to amend section 115JC of the Income-tax Act relating to special provisions for payment of tax by certain persons other than a company.

The provisions of the said section, *inter alia*, provide that where the regular income-tax payable for a previous year by a person, other than a company, is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

Sub-section (4) of the said section provides that notwithstanding anything contained in sub-section (1) thereof, where the person referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, it shall be liable to pay income-tax on such total income at the rate of nine per cent.

It is proposed to substitute the said sub-section (4), to provide that notwithstanding anything contained in sub-section (1) of the said section, where the person referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, it shall be liable to pay income-tax on such total income at the rate of nine per cent. and where the person referred to therein, is a co-operative society, it shall be liable to pay income-tax on such total income at the rate of fifteen per cent.

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 30 seeks to amend section 115JF of the Income-tax Act relating to interpretation in the Chapter XII-BA.

The said section provides for definitions of earlier terms and expressions used in the said Chapter.

Clause (b) of the said section provides for the definition of "alternate minimum tax".

It is proposed to substitute the sub-clause (i) to provide that the rate of alternate minimum tax, in case of an assessee, being a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, shall be nine per cent., and in case of an assessee, being a co-operative society, fifteen per cent.

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 31 seeks to amend section 115TD of the Income-tax Act relating to tax on accreted income.

The said section, *inter-alia*, provides that where in any previous year, a trust or institution registered under section 12AA or section 12AB has converted into any form which is not eligible for grant of registration under said sections or merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under said sections or failed to transfer upon dissolution all its assets to any other trust or institution registered under said sections or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), of clause (23C) of section 10, within a period of twelve months from the end of the month in which the dissolution takes place, then, in addition to the income-tax chargeable in respect of the total income of such trust or institution, the accreted income of the trust or the institution as on the specified date shall be charged to tax and such trust or institution, as the case may be, shall be liable to pay additional income-tax at the maximum marginal rate on the accreted income.

It is proposed to make consequential amendments in the said section so as to provide that the provisions of the said section shall also be applicable to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act.

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 32 seeks to amend section 115TE of the Income-tax Act relating to interest payable for non-payment of tax by trust or institution.

The said section, *inter alia*, provides that where the principal officer or the trustee of the trust or the institution and the trust or the institution fails to pay the whole or any part of the tax on the accreted income referred to in sub-section (1) of section 115TD, within the time allowed under sub-section (5) of that section, he or it shall be liable to pay simple interest at the rate of one per cent. for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

It is proposed to amend the said section so as to substitute the reference of the expression "trust or the institution" with the reference of "specified person".

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 33 seeks to amend section 115TF of the Income-tax Act relating to when trust or institution is deemed to be assessee in default.

The said section, *inter-alia*, provides that if any principal officer or the trustee of the trust or the institution and the trust or the institution does not pay tax on accreted income in accordance with the provisions of section 115TD, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of the Act for the collection and recovery of income-tax shall apply.

It is proposed to amend the said section so as to substitute the reference of the expression "trust or the institution" with the reference of "specified person".

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 34 seeks to amend section 119 of the Income-tax Act relating to instructions to subordinate authorities.

Clause (a) of sub-section (2) of the said section empowers the Board to issue general or special orders in respect of any class of incomes or class of cases to be followed by other income-tax authorities by way of relaxation or otherwise relating to the provisions of the sections specified therein, for the purpose of proper and efficient management of the work of assessment and collection of revenue.

It is proposed to insert the reference of section 234F relating to fee for default in furnishing return of income, to the list of sections mentioned therein in respect of which such relaxation can be granted by the Board.

This amendment will take effect from lst April, 2022.

Clause 35 seeks to amend section 132 of the Income-tax Act relating to search and seizure.

Sub-section (8) of the said section provides that the books of account or other documents seized under sub-section (1) or sub-section (1A) of the said section shall not be retained by the authorised officer for a period exceeding thirty days from the date of the order of assessment under section 153A or clause (c) of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director for such retention is obtained.

It is proposed to amend the said sub-section to provide that provisions therein shall be applicable to an order of assessment or reassessment or recomputation made in a search case.

This amendment will take effect from lst April, 2022.

Clause 36 seeks to amend section 132B of the Income-tax Act relating to application of seized or requisitioned assets.

Sub-section (1) of the said section provides the manner in which assets seized under section 132 or requisitioned under section 132A are dealt with. It is proposed to amend clause (i) of sub-section (1) of section 132B to provide that the provisions of such clause shall apply to completion of assessment or reassessment or recomputation.

Sub-section (4) of the said section provides the computation of simple interest that the Central Government shall pay on the amount of money seized under section 132 or requisitioned under section 132A. It is proposed to amend sub-clause (b) of the said sub-section to provide that the said clause shall also be applicable to completion of assessment or reassessment or recomputation.

These amendments will take effect from lst April, 2022.

Clause 37 seeks to amend the section 133A of the Income-tax Act relating to power of survey.

Explanation to the said section, *inter alia*, defines the expression “income-tax authority”.

It is proposed to amend the said definition “income-tax authority” to mean such authority who is subordinate to the Principal Director General or the Director General or the Principal Chief Commissioner or the Chief Commissioner, as may be specified by the Board.

This amendment will take effect from 1st April, 2022.

Clause 38 seeks to amend section 139 of the Income-tax Act relating to return of income.

It is proposed to insert sub-section (8A) in the said section to provide that any person, whether or not he has furnished a return under sub-section (1) or sub-section (4) or sub-section (5), for an assessment year (herein referred to as the relevant assessment year), may furnish an updated return of his income or the income of any other person in respect of which he is assessable under the Income-tax Act, for the previous year relevant to such assessment year, in the prescribed form, verified in the prescribed manner and setting forth such particulars as may be prescribed, at any time within twenty-four months from the end of the relevant assessment year.

It is further proposed to provide that the proposed sub-section (8A) shall not apply, if the updated return, is a return of a loss or has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5) or results in refund or increases the refund due on the basis of return furnished under sub-section (1) or sub-section (4) or sub-section (5), of such person under this Act for the relevant assessment year.

It is also proposed that such person shall not be eligible to furnish an updated return under this sub-section, where a search has been initiated under section 132 or books of account or other documents or any assets are requisitioned under section 132A in the case of such person or a survey has been conducted under section 133A other than sub-section (2A) of that section, in the case such person or a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person or a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person, for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and two assessment years preceding such assessment year.

It is also proposed that no updated return shall be furnished by any person for the relevant assessment year, where, an updated return has been furnished by him under the proposed sub-section (8A) for the relevant assessment year or any proceeding for assessment or reassessment or recomputation or revision of income under the Income-tax Act is pending or has been completed for the relevant assessment year in his case or the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 or the Prohibition of *Benami* Property Transactions Act, 1988 or the Prevention of Money-laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and the same has been communicated to him, prior to the date of furnishing of return under this sub-section or information for the relevant assessment has been received under an agreement referred to in sections 90 or 90A of the Act in respect of such person and the same has been communicated to him, prior to the date of furnishing of return under this sub-section or any prosecution proceedings under the Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of furnishing of return under this sub-section or he is such person or belongs to such class of persons, as may be notified by the Board in this regard.

It is also proposed to insert a clause in the *Explanation* to sub-section (9) of the said section to provide that a return furnished under the proposed sub-section (8A) of the said

section unless such return is accompanied by the proof of payment of tax as required under section 140B.

These amendments will take effect from 1st April, 2022.

Clause 39 seeks to insert a new section 140B in the Income-tax Act relating to tax on updated return.

It is proposed to provide for filing of updated return by a person under the new sub-section (8A) of section 139. It is, therefore, proposed to provide that the total tax shall be payable by such person furnishing a return under the said sub-section (8A) as a consequential amendment.

The proposed new section provides that in the case of an assessee, where no return of income under sub-section (1) or sub-section (4) of section 139 has been furnished by such assessee and tax is payable, on the basis of return to be furnished by such assessee under sub-section (8A) of section 139, the assessee shall be liable to pay such tax together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional income-tax, before furnishing such return. The tax payable shall be computed after taking into account the following:—

(*i*) the amount of tax, if any, already paid as advance tax;

(*ii*) any tax deducted or collected at source;

(*iii*) any relief of tax claimed under section 89;

(*iv*) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;

(*v*) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and

(*vi*) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Such updated return shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

It is further proposed that, in the case of an assessee, where, return of income under sub-section (1) or sub-section (4) or sub-section (5) of section 139 (referred to as the earlier return) has been furnished by such assessee and tax is payable on the basis of return to be furnished by such assessee under sub-section (8A) of section 139, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any default or delay in payment of advance tax, along with the payment of additional income-tax, as reduced by the amount of interest paid under the provisions of this Act in the earlier return, before furnishing the return and the tax payable shall be computed after taking into account the following:—

(*i*) the amount of relief or tax referred to in sub-section (1) of section 140A, the credit for which has been claimed in the earlier return ;

(*ii*) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been included in the earlier return;

(iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(*v*) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return, and

as increased by the amount of refund, if any, issued in respect of such earlier return.

The updated return, furnished under sub-section (8A) of section 139, shall be accompanied by proof of payment of such tax, additional income-tax, interest and fee.

It is also proposed that the additional income-tax, payable at the time of furnishing the return under sub-section (8A) of section 139, shall be equal to twenty-five per cent. of aggregate of tax and interest payable, as determined above, if such return is furnished after expiry of the time available under sub-section (4) or sub-section (5) of section 139 and before completion of period of twelve months from the end of the relevant assessment year. However, if such return is furnished after the expiry of twelve months from the last date of the relevant assessment year but before completion of the period of twenty-four months from the last date of the relevant assessment year, the additional income-tax payable shall be fifty per cent. of aggregate of tax and interest payable, as determined above.

It is proposed to insert *Explanation* in sub-section (3) to provide that for the purpose of computing additional income-tax, “tax” shall include surcharge and cess, by whatever name called, on such tax.

It is also proposed that notwithstanding anything contained in *Explanation* 1 to section 234B, in the cases where an earlier return has been furnished, interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the "assessed tax" which means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139, after taking into account the following:—

(i) the amount of relief or tax, referred to in sub-section (1) of section 140A, the credit for which has been claimed in the earlier return;

(ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income, which has not been included in the earlier return;

(iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been included in the earlier return;

(iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been included in the earlier return;

(v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return, and

as increased by the amount of refund, if any, issued in respect of such earlier return.

It is also proposed that if any difficulty arises in giving effect to the provisions of the proposed section, the Board may, with the approval of the Central Government, issue guidelines, by notification in the Official Gazette, for the purpose of removing the difficulty and every such guideline shall be laid before each House of Parliament.

It is also proposed to provide that interest payable under section 234A, where no earlier return has been furnished, shall be computed on the amount of tax on the total income as declared in the return under sub-section (8A) of section 139. Further, interest payable under section 234C, where an earlier return has been furnished, shall be computed after taking into account the total income furnished in the return under sub-section (8A) of section 139 as the returned income. At the same time, for the computation of additional income-tax above, the interest payable shall be interest chargeable under any provision of the Income-tax Act, on the income as per return furnished under sub-section (8A) of section 139, as reduced by interest paid in the earlier return, if any. However, the interest paid in the earlier return shall be considered to be nil if no earlier return has been furnished.

This amendment will take effect from 1st April, 2022.

Clause 40 seeks to amend section 143 of the Income-tax Act relating to assessment.

Sub-section (3) of the said section, inter-alia, provides that the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

The proviso to the said sub-section, inter-alia, provides that in case of fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) of clause (23C) of section 10, no order of assessment of the total income or loss shall be made by the Assessing Officer without giving effect to the provisions of section 10, unless contravention of the provisions

of sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 has been intimated by the Assessing Officer to the Central Government or prescribed authority and the approval granted has been withdrawn or notification has been rescinded.

It is proposed to amend the said proviso so as to omit the reference of fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) of clause (23C) of section 10.

It is further proposed to insert a new proviso after the first proviso so as to provide that where the Assessing Officer is satisfied that any fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), of clause (23C) of section 10, or any trust or institution referred to in section 11, has committed any specified violation as defined in the Explanation 2 to fifteenth proviso to clause (23C) of section 10 or the *Explanation* to sub-section (4) of section 12AB, as the case may be, he shall—

(a) send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration, as the case may be; and

(b) no order making an assessment of the total income or loss of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution shall be made by him without giving effect to the order passed by the Principal Commissioner or Commissioner under clause (ii) or (iii) of fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB.

These amendments will take effect from 1st April, 2022.

Clause 41 seeks to amend section 144 of the Income-tax relating to best judgement assessment.

It is proposed to amend clause (a) of sub-section (1) of the said section to provide that the Assessing Officer shall make best judgement assessment if any person fails to furnish updated return under sub-section (8A) of section 139 along with failure to make return under sub-section (1) or sub-section (4) or sub-section (5) of section 139.

This amendment will take effect from 1st April, 2022.

Clause 42 seeks to amend section 144B of the Income-tax Act relating to faceless assessment.

The provisions of the said section provides the procedure to be followed during the conduct of faceless assessment under sub–section (3) of section 143 or section 144. It further, provides the scope of the cases covered under the faceless assessment, setting up of the National Faceless Assessment Centre (NaFAC), Regional Faceless Assessment Centres, assessment units (AU), verification units (VU), technical units (TU) and review units (RU) as well as the authorities in such units, authentication of electronic record,

delegates power to lay down standards, procedures and processes for effective functioning of the various centres and units, etc.

It is proposed to substitute sub-sections (1) to (8) of the said section with new sub-sections (1) to (8) to provide for modified procedure of faceless assessment for resolving the difficulties faced in its implementation. The provisions of the proposed amendment to the said section shall apply for faceless assessment, reassessment or recomputation under sub-section (3) of section 143 or under section 144 or under section 147 of the Act, as the case may be, in the cases specified therein. The NaFAC shall assign the case selected for the purposes of faceless assessment to a specific AU and intimate the assessee that assessment in his case shall be completed as per the said section. The assessee shall be served a notice under sub-section (2) of section 143 or under sub-section (1) of section 142 of the Act, through the NaFAC. The assessee may file his response to the aforementioned notice, within the date specified in such notice, to the NaFAC, which shall forward the same to the AU.

Thereafter, the AU may make a request, through the NaFAC, for obtaining such further information, documents or evidence from the assessee or any other person, as it may specify and the NaFAC shall serve appropriate notice or requisition on the assessee or any other person for obtaining the same. The AU may also make a request, through the NaFAC, for conducting enquiry or verification by VU and the request shall be assigned by the NaFAC to a VU through an automated allocation system. The AU may also similarly make a request for reference to the technical unit and the request shall be assigned by the NaFAC to a TU through an automated allocation system. The assessee or any other person, as the case may be, shall file his response in compliance to the said notice served by NaFAC, at the request of AU, to the NaFAC which shall forward the reply to the AU. If the assessee fails to comply with the said notice served by NaFAC, at the request of AU, or the earlier notice under sub-section (2) of section 143 or under sub-section (1) of section 142, the NaFAC shall intimate the same to the AU. The AU shall serve upon the assessee, through NaFAC, a show cause notice under section 144 giving him the opportunity to explain as to why the assessment in his case should not be completed to the best of its judgement. The NaFAC shall send any report received from the VU or TU to the AU.

The assessee shall file his response to the show-cause notice under section 144 of the Act, within the time specified in such notice, to the NaFAC which shall forward the same to the AU. If the assessee fails to respond, the NaFAC shall intimate the same to the AU. The AU shall, after taking into account all the relevant material available on the record, prepare in writing, an income or loss determination proposal where no variation prejudicial to assessee is proposed and send the same to the NaFAC or in any other case, serve a show cause notice on the assessee stating the variations proposed to be made to the income of the assessee and calling upon him to submit as to why the proposed variation should not be made, through the NaFAC.

The assessee shall file his reply to such show cause notice, to the NaFAC, on date and time as specified, which shall forward the reply to the AU. If the assessee fails to respond within the specified time, the NaFAC shall intimate the same to the AU. After considering the response of the assessee or the intimation of failure of assessee to file a response received from NaFAC and all relevant material available on the record, the AU shall prepare an income or loss determination proposal and send the same to the NaFAC.

Upon receipt of such income or loss determination proposal, with or without any variations proposed to the income of the assessee, as the case may be, the NaFAC may, convey to the AU to prepare draft order which shall thereafter prepare a draft order, or assign the income or loss determination proposal to a RU through an automated allocation system, which shall conduct a review of such order, prepare a review report and send it to NaFAC. The NaFAC shall forward the review report received from the RU to the AU which had proposed the income or loss determination proposal. The AU may accept or reject some or all of the modifications proposed in such review report, prepare a draft order accordingly, and send it to NaFAC.

The NaFAC shall, upon receiving draft order in a case of eligible assessee, where there is a proposal to make any variation which is prejudicial to the interest of such assessee under sub-section (1) of section 144C, serve such draft order and assessee. In any case, other than that of eligible assessee under section 144C, the NaFAC shall convey to the AU to pass the final assessment order in accordance with such draft order which shall thereafter pass the final assessment order and initiate penalty proceedings, if any, and send it to the NaFAC. The NaFAC shall serve a copy of the final assessment order, notice for initiating penalty proceedings, if any and the demand notice, to the assessee;

An eligible assessee, as referred to in section 144C, has to file his acceptance of the variations proposed in such draft order or file objections, if any, to such variations with the Dispute Resolution Panel, under section 144C and the NaFAC, within the period specified in sub-section (2) of the said section.

In case the variations proposed in the draft order are accepted by the assessee or not objected to within the time given in sub-section (2) of section 144C, the NaFAC shall intimate the AU of the same, which shall pass the assessment order, on the basis of the draft order, within the time allowed under sub-section (4) of section 144C and initiate penalty proceedings, if any, and send the order to the NaFAC. Where the eligible assessee files objections with the Dispute Resolution Panel against the variations proposed in the draft order in his case, the NaFAC shall send such intimation along with a copy of such objections to the AU.

Upon receipt of the directions issued by the Dispute Resolution Panel in the case of an eligible assessee, the NaFAC shall forward such directions to the AU. The AU shall complete the assessment within the time allowed in sub-section (13) of section 144C and initiate penalty proceedings, if any, in conformity with the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, and send a copy of the assessment order to the NaFAC.

The NaFAC shall, upon receipt of final assessment order, in the case of an eligible assessee under section 144C or in other cases, serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice. The NaFAC shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Income-tax Act.

The proposed section also provides that faceless assessment shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.

The proposed section also provides that Board may, for the purposes of faceless assessment, set up the following Centre and units and specify their functions and jurisdiction, namely:—

(i) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner;

(ii) assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making faceless assessment, and the term "assessment unit", wherever used in this section, shall mean an assessing officer having powers so assigned by the Board;

(iii) verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification and the term "verification unit", wherever used in this section, shall mean an assessing officer having powers so assigned by the Board;.

(iv) technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under the Income-tax Act or an agreement entered into under section 90 or section 90A which may be required in a particular case or a class of cases, under this section and the term "technical unit", wherever used in this section, shall mean an assessing officer having powers so assigned by the Board.

(v) review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of the income determination proposal assigned to it, which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review and the term "review unit", wherever used in this section, shall mean an assessing officer having powers so assigned by the Board.

It is also proposed that the AU, VU, TU and RU shall have the following authorities, namely:—

(i) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(ii) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director or Income-tax Officer, as the case may be;

(iii) such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board.

The proposed amendment also provide that all communication, among the AU, RU, VU or TU or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the NaFAC, between the NaFAC and the assessee, or his authorized representative, or any other person shall be exchanged exclusively by electronic mode and all communications between the NaFAC and various units shall be exchanged exclusively by electronic mode. However, this provision shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as may be specified by the Board in this regard.

It is further proposed to provide for the authentication of electronic record for the purposes of faceless assessment.

A person shall not be required to appear either personally or through authorised representative in connection with any proceedings before any unit set up under the proposed section. It is also proposed that in a case where a variation is proposed in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a show cause notice upon him, the assessee or his authorized representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority of the relevant unit. Where the request for personal hearing has been received, the income-tax authority of the relevant unit shall allow such hearing, through NaFAC, which shall be conducted exclusively through video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board. Any examination or recording of the statement of the assessee or any other person (other than the statement recorded in the course of survey under section 133A) shall be conduced by an income-tax authority in the relevant unit, exclusively through video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board.

The Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of the NaFAC shall, with the prior approval of the Board, lay down the standards, procedures and processes in the specified manner for effective functioning of the NaFAC and the units set up, in an automated and mechanized environment.

The proposed section also seeks to provide that if at any stage of the proceedings before it, the AU having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary to do so, it may, upon recording its reasons in writing, refer the case to the NaFAC stating that the provisions of sub-section (2A) of section 142 may be invoked in the case. The Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of the National Faceless Assessment Centre shall, in accordance with the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of sub-section (2A) of section 142 may be invoked in the

case, forward the reference received from an assessment unit to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accordingly. He shall also transfer the case to the Assessing Officer having jurisdiction over such case. Where such a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of sub-section (2A) of section 142. However, where such a reference has not been forwarded to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, the assessment unit shall proceed to complete the assessment in accordance with the procedure in the said section.

It is also proposed to provide that the Principal Chief Commissioner or the Principal Director General, as the case may be, in charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board. Also, the function of VU for faceless assessment may also be performed by a VU located in any other faceless center set up under the provisions of the Act or under any scheme notified under the provisions of the Act and the request for verification may also be assigned through the NaFAC to such verification unit.

These amendments will take effect from 1st April, 2022.

It is also proposed to omit the existing sub-section (9) of the said section 144B retrospectively from the 1st April, 2021.

This amendment will take effect retrospectively from 1st April, 2021.

It is also proposed to omit sub-section (10).

It is also proposed to include the definition of the expression “electronic verification code” and to omit the definition of the term “originator” in the *Explanation* .

These amendments will take effect from 1st April, 2022.

Clause 43 seeks to amend section 144C of the Income-tax Act relating to Reference to dispute resolution panel.

The said section, *inter alia,* empowers the Central Government to notify a scheme for the purposes of issuance of directions by the dispute resolution panel so as to impart greater efficiency, transparency and accountability by—

(*a*) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;

(*b*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*c*) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.

Sub-section (14C) of the said section further provides that for the purposes of giving effect to the aforesaid scheme, the Central Government may by notification in the Official Gazette direct that any of the provisions of the Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified.

It is proposed to amend the proviso to the said sub-section (14C), extending the date for issuing directions for the purposes of the said sub-section from 31st day of March, 2022 to 31st day of March, 2024.

This amendment will take effect from 1st April, 2022.

Clause 44 seeks to amend section 148 of the Income-tax Act relating to issue of notice where income has escaped assessment.

The said section provides for issuance of notice to a person before making the assessment, reassessment or recomputation under section 147 of the Income-tax Act, requiring such person furnish a return of his income or income of any other person in respect of which he is assessable under the Act, within specified time, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

It is proposed to insert a new proviso under the first proviso to the effect that approval to issue notice under the said section 148 shall not be required where the Assessing Officer, with the prior approval of the specified authority has passed an order under clause (d) of section 148A that it is a fit case to issue a notice under the said section.

It is also proposed to amend *Explanation* 1 to the said section to provide that for the purposes of the said section and section 148A of the Act, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

(i) any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time; or

(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or

(v) any information which requires action in consequence of the order of a Tribunal or a Court.

It is also proposed to amend clause (ii) of *Explanation* 2 of the said section to omit the reference of sub-section (5) of section 133A.

These amendments will take effect from the lst April, 2022.

It is also proposed to amend *Explanation* 2 to the said section to provide that the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee where the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

This amendment will take effect retrospectively from lst April, 2021.

Clause 45 seeks to amend section 148A of the Income-tax Act relating to conducting inquiry, providing opportunity before issue of notice under section 148.

Clause (b) of the said section provides that an opportunity of being heard shall be provided to the assessee, by serving upon him a notice to show cause as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a) of the said section. It is proposed to omit the requirement of approval of specified authority in clause (b).

It is further proposed to insert a new clause (d) in the proviso to the said section to provide that the provisions of the said section shall not apply in cases where the Assessing Officer has received any information under the scheme notified under section 135A, pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.

These amendments will take effect from lst April, 2022.

Clause 46 seeks to insert a new section 148B in the Income-tax Act relating to prior approval for assessment, reassessment or recomputation in certain cases.

The proposed new section seeks to provide that no order of assessment or reassessment or recomputation under the Act shall be passed by an Assessing Officer below the rank of Joint Commissioner, except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, in respect of an assessment year to which clause (i), clause (ii), clause (iii) or clause (iv) of the *Explanation* 2 to section 148 apply.

This amendment will take effect from lst April, 2022.

Clause 47 seeks to amend section 149 of the Income-tax Act relating to time limit for notice.

The said section provides the time limit for issuance of notice under section 148 for assessment, reassessment or recomputation of income.

It is proposed to amend the clause (b) of sub-section (1) of the said section to provide that no notice under section 148 shall be issued for the relevant assessment year after three years but prior to ten years from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of,—

(i) an asset;

(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account,

which has escaped assessment amounts to or likely to amount to fifty lakh rupees or more.

This amendment will take effect from lst April, 2022.

It is also proposed to amend the first proviso to sub-section (1) of the said section to provide that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under section 148 or section 153A or section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of section 149 or section 153A or section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021

This amendment will take effect retrospectively from lst April, 2021.

It is also proposed to insert a new sub-section (1A) in the said section to provide that notwithstanding anything contained in sub-section (1) of the said section, where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause (b) of sub-section (1) of the said section, has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause (b) of sub-section (1) of the said section, notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.

This amendment will take effect from lst April, 2022.

Clause 48 seeks to amend section 153 of the Income-tax Act relating to time limit for completion of assessment, reassessment and recomputation.

It is proposed to insert a new sub-section (1A) in the said section to provide that where an updated return is furnished under sub-section (8A) of section 139, an order of assessment under section 143 or section 144 may be made at any time before the expiry of nine months from the end of the financial year in which such return was furnished.

It is further proposed to amend sub-section (3) of the said section to provide that fresh order under section 92CA, in pursuance of an order, setting aside or cancelling an order under section 92CA shall also come within the provision of the said sub-section.

It is also proposed to amend sub-section (5) of the said section to provide that an order passed by the Transfer Pricing Officer under section 92CA of the Act, in consequence to an order under section 263 of the Act shall also come within the purview of the said Act.

It is also proposed to insert a new sub-section (5A) to provide that where the Transfer Pricing Officer gives effect to an order or direction under section 263 by means of an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or recomputation, in conformity with such order of the Transfer pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him.

It is also proposed to amend sub-section (6) to make a reference of the newly inserted sub-section (5A) therein.

These amendments are proposed consequent to the amendments made in section 263.

Explanation 1 to the said section provides the time limit in certain cases which are required to be excluded while computing the period of limitation under the said section.

It is also proposed to amend clause (iii) of the said *Explanation* so as to omit the reference of "sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10".

These amendments will take effect from lst April, 2022.

It is also proposed to insert a new clause (xii) to provide for exclusion of the period commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion , jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee,—

(a) in whose case such search is initiated under section 132 or such requisition is made under section 132A; or

(b) to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to; or

(c) to whom any books of account or documents seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

or one hundred and eighty days, whichever is less, in computing the period of limitation for the purpose of assessment, reassessment or recomputation.

This amendment will take retrospectively effect from lst April, 2021.

It is also proposed to insert a new clause (xiii) in the said *Explanation* to provide that the period commencing from the date, on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner under third second proviso to sub-section (3) of section 143 or is deemed to have been made under *Explanation* 3 of the fifteenth proviso to clause (23C) of section 10, and ending with the date on which the copy of the order under clause (ii) or clause (iii) of fifteenth proviso to clause (23C) of section 10 or clause (ii) or clause (iii) of sub-section (4) of section 12AB, as the case may be, is received by the Assessing Officer, shall be excluded while computing the period of limitation under the said section.

This amendment will take effect from lst April, 2022.

Clause 49 seeks to amend section 153B of the Income-tax Act relating to time limit for completion of assessment under section 153A.

The said section provides the time limit for completion of assessment or reassessment under section 153A in the case of an assessee in whose case a search has been conducted under section 132 or books of account, other documents or any assets are requisitioned under section 132A. It further provides the period of limitation for completion of assessment or reassessment under section 153C.

It is proposed to insert a new sub-section (4) in the said section to provide that nothing contained in the said section shall apply to any search under section 132 or requisition done under section 132A on or after the 1st day of April, 2021.

This amendment will take effect from lst April, 2022.

The *Explanation* to the said section provides the periods which shall be excluded while calculating the aforesaid period of limitation.

It is proposed to insert a new *Explanation* to the said section, clause (xi) may be inserted to provide for exclusion of the period commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion , jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A, as the case may be or one hundred and eighty days, whichever is less.

These amendments will take effect retrospectively from lst April, 2021.

Clause 50 seeks to insert a new section 156A in the Income-tax Act relating to modification and revision of notice in certain cases.

It is proposed to provide that where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, the Assessing Officer shall modify the demand

payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

It is further proposed to provide that where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly.

These amendments will take effect from lst April, 2022.

Clause 51 seeks amend section 158AA of the Income-tax Act relating to procedure when in an appeal by revenue an identical question of law is pending before Supreme Court.

It is proposed to insert a proviso in sub-section (1) in the said section to provide that no direction shall be given under this sub-section on or after the 1st day of April, 2022.

This amendment will take effect from 1st April, 2022.

Clause 52 seeks to insert a new section 158AB in the Income-tax Act relating to procedure where an identical question of law is pending before the High Courts or Supreme Court.

Sub-section (1) of the proposed section seeks to provide that where a collegium of Chief Commissioners or Principal Commissioners or Commissioners is of the opinion that any question of law arising in the case of an assessee for any assessment year ("relevant case") is identical with a question of law arising in his case or in the case of any other assessee for an assessment year, which is pending before the jurisdictional High Court under section 260A or the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, as the case may be, in favour of such assessee ("other case"), it may, decide and inform the Principal Commissioner or Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the jurisdictional High Court under sub-section (2) of section 260A against the order of the Commissioner (Appeals) or the Appellate Tribunal, as the case may be.

Sub-section (2) of the proposed section provides that the Principal Commissioner or Commissioner shall, on receipt of communication from the collegium, direct the Assessing Officer to make an application to the Appellate Tribunal or the jurisdictional High Court, as the case may be, in the prescribed form within a period of sixty days from the date of receipt of the order of the Commissioner (Appeals) or within one hundred and twenty days from the date of receipt of the order of the Appellate Tribunal, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

Sub-section (3) of the proposed section provides that the Principal Commissioner or Commissioner shall direct the Assessing Officer to make such an application only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case, and in case no such acceptance is

received, the Principal Commissioner or Commissioner shall proceed in accordance with the provisions contained in sub-section (2) of section 253 or in sub-section (2) of section 260A.

Sub-section (4) of the proposed section provides that where the order of the Commissioner (Appeals) or the order of the Appellate Tribunal, as the case may be, in the relevant case is not in conformity with the final decision on the question of law in the other case as and when such order is received, the Principal Commissioner or Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, as the case may be, against such order and save as otherwise provided in this section all other provisions of Part B of Chapter XX shall apply accordingly.

Sub-section (5) of the proposed section provides that appeal in the relevant case shall be filed within a period of sixty days from the date on which the order of the jurisdictional High Court or the Supreme Court, in the other case, is communicated, in accordance with the procedure specified by the Board in this behalf, to the Principal Commissioner or Commissioner.

It is also proposed to define the expression "collegium" for the purposes of the proposed section to mean a collegium comprising of two or more Chief Commissioners, Principal Commissioners or Commissioners as may be specified by the Board.

This amendment will take effect from 1st April, 2022.

Clause 53 seeks to amend section 170 of the Income-tax Act relating to succession to business otherwise than on death.

It is proposed to amend the said section to insert a new sub-section (2A) to provide a deeming provision in order to save and validate the proceedings and to hold the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganisation, to be held in the hands of the successor and to insert an *Explanation* to define the expressions,—

(i) "business reorganisation" means the reorganisation of business involving the amalgamation or de-merger or merger of business of one or more persons;

(ii) "pendency" to mean the period commencing from the date of filing of application for such reorganisation of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, as the case may be, is received by the Principal Commissioner or the Commissioner.

This amendment will take effect from lst April, 2022.

Clause 54 seeks to insert a new section 170A in the Income-tax Act relating to the effect of order of tribunal or court in respect of business reorganisation.

It is proposed to provide that notwithstanding anything contained in section 139, in

case of business reorganisation, where prior to the date of order of a High Court or tribunal or an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, as the case may be, any return of income has been furnished by the successor under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order.

It is further proposed to insert an *Explanation* in the said section to define the expression "business reorganisation" shall have the same meaning as assigned to it in clause (i) of the *Explanation* to sub-section (2A) of section 170.

This amendment will take effect from lst April, 2022.

Clause 55 seeks to amend the section 179 of the Income-tax Act relating to liability of directors of private company in liquidation. It provides for recovery of tax dues of a private company from its directors, in cases where such tax dues cannot be recovered from the company itself.

The marginal heading of the said section reads as liability of directors of private company in liquidation. However, the provisions of the section do not deal with companies in liquidation. Therefore, it is proposed to omit the words "in liquidation" from the marginal heading of the said section.

It is further proposed to include "fees" within the scope of the expression "tax due" in the *Explanation* to the said section.

These amendments will take effect from 1st April, 2022.

Clause 56 seeks to amend section 194-IA of the Income-tax Act relating to payment on transfer of certain immovable property other than agricultural land.

Sub-section (1) of the said section provides for deduction of tax by any person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall at the time of credit or payment of such sum to the resident at the rate of one per cent. of such sum as income-tax thereon.

Sub-section (2) of the said section provides that no deduction of tax shall be made where the consideration for the transfer of an immovable property is less than fifty lakh rupees.

It is proposed to amend sub-section (1) of the said section to provide that the person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall at the time of credit or payment of such sum to the resident deduct tax at the rate of one per cent. of such sum or the stamp duty value of such property, whichever is higher, as income-tax thereon.

It is further proposed to amend sub-section (2) of the said section to provide that no deduction of tax shall be made where the consideration for the transfer of an immovable property and the stamp duty value of such property, are both less than fifty lakh rupees.

It is also proposed to insert clause (c) to the *Explanation* to define "stamp duty value".

These amendments will take effect from 1st April, 2022.

Clause 57 seeks to amend section 194-IB of the Income-tax Act relating to payment of rent by certain individuals or Hindu undivided family.

The said section provides for deduction of tax by an individual or Hindu undivided family (other than those referred to in second proviso of section 194-I) on the payment of any income by way of rent exceeding fifty thousand rupees for a month or part of a month to a resident at the rate of five per cent. of such income.

Sub-section (4) of the said section provides that where the tax is required to be deducted as per the provisions of section 206AA or section 206AB, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

It is proposed to amend the said sub-section (4) to omit the reference of section 206AB.

This amendment will take effect from 1st April, 2022.

Clause 58 seeks to insert a new section 194R to the Income-tax Act, 1961 relating to deduction of tax on benefit or perquisite in respect of a business or profession.

The proposed new section provides that the person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per cent. of the value or aggregate of value of such benefit or perquisite.

It is further proposed to provide that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit of perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.

It is also proposed to provide that the provision of the said section shall not apply in case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed twenty thousand rupees.

It is also proposed to provide that the provisions of the section shall not apply to a person being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed one crore rupees in case the of business or fifty lakh rupees in the case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

It is also proposed to clarify that the expression "person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

This amendment will take effect from 1st July, 2022.

Clause 59 seeks to insert a new section 194S in the Income-tax Act relating to payment on transfer of virtual digital asset.

The proposed sub-section (1) seeks to provide that any person responsible for paying to a resident any sum by way of consideration for transfer of a virtual digital asset shall, at the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier, deduct an amount equal to one per cent. of such sum as income-tax thereon.

It is further proposed to provide a proviso therein that in a case where the consideration for transfer of virtual digital asset is—

(a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or

(b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer,

the person responsible for paying such consideration shall, before releasing the consideration, ensure that tax has been paid in respect of such consideration for the transfer of virtual digital asset.

The proposed sub-section (2) seeks to provide that provisions of sections 203A and 206AB shall not apply to a specified person.

The proposed sub-section (3) seeks to provide that notwithstanding anything contained in sub-section (1), no tax shall be deducted in a case, where—

(a) the consideration is payable by a specified person and the value or aggregate value of such consideration does not exceed fifty thousand rupees during the financial year; and

(b) the consideration is payable by any person other than a specified person and the value or aggregate value of such consideration does not exceed ten thousand rupees during the financial year.

The proposed sub-section (4) seeks to provide that notwithstanding anything contained in Chapter XVII of the Income-tax Act, a transaction in respect of which tax has been deducted under sub-section (1) shall not be liable to deduction or collection of tax at source under any other provision of the said Chapter.

The proposed sub-section (5) seeks to provide that where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such sum, such credit of the sum

shall be deemed to be the credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

The proposed sub-section (6) seeks to provide that if any difficulty arises in giving effect to the provisions of this section, the Board may, with the prior approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

The proposed sub-section (7) seeks to provide that every guideline issued by the Board under sub-section (6) shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person responsible for paying the consideration on transfer of such virtual digital asset.

The proposed sub-section (8) seeks to provide that notwithstanding anything contained in section 194-O, in case of a transaction to which the provisions of the said section are also applicable along with the provisions of this section then, tax shall be deducted under sub-section (1).

Explanation to the said section seeks to provide that for the purposes of the said section "specified person" means a person,—

(a) being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;

(b) being an individual or a Hindu undivided family, not having any income under the head "Profits and gains of business or profession".

This amendment will take effect from 1st July, 2022.

Clause 60 of the Bill seeks to amend section 201 of the Income-tax Act 1961 relating to consequences of failure to deduct or pay.

Sub-section (1A) of the said section provides that if any person who is liable to deduct tax at source does not deduct it or after so deducting fails to pay the same to the credit of the Government, then, he shall be liable to pay simple interest at the rates specified therein.

It is proposed to insert a new proviso to the said sub-section to provide that where an order is made by the Assessing Officer for the default referred to in sub-section (1), the interest shall be paid by the person in accordance with such order.

This amendment will take effect from the 1st day of April, 2022.

Clause 61 seeks to amend section 206AB of the Income-tax Act relating to special provision for deduction of tax at source for non-filers of income-tax return.

Sub-section (1) of the said section provides the rates at which the tax shall be deducted in case of specified person.

It is proposed to amend the said sub-section (1) to,—

(i) include the reference of sections 194-IA, 194-IB and 194M; and

(ii) omit the brackets and words "(hereafter referred to as deductee)".

It is further proposed to amend sub-section (3) of the said section to provide that for the purposes of the said section, "specified person" shall mean a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.

These amendments will take effect from 1st April, 2022.

Clause 62 of the Bill seeks to amend section 206C of the Income-tax Act 1961 relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap etc.

Sub-section (7) of the said section deals with the consequences of persons who fail to collect tax or after collecting, fail to deposit the same to the credit of the Central Government. If any person who is liable to collect tax at source does not collect it or after so collecting fails to pay the same to the credit of the Government, then he shall be liable to pay interest at rates specified therein.

It is proposed to insert a new proviso to the said sub-section to provide that where an order is made by the Assessing Officer for the default referred to in sub-section (6A), the interest shall be paid by the person in accordance with such order.

These amendments will take effect from the 1st day of April, 2022.

Clause 63 seeks to amend section 206CCA of the Income-tax Act relating to special provision for collection of tax at source for non-filers of income-tax return.

Sub-section (1) of the said section provides for the rates at which tax shall be collected in case of specified person.

It is proposed to amend the said sub-section (1) to omit the brackets and words "(hereafter referred to as collectee)".

It is further proposed to amend sub-section (3) of the said section to provide that for the purposes of the said section, "specified person" shall mean a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing of return of income under sub-section (1) of section 139 has expired and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.

These amendments will take effect from 1st April, 2022.

Clause 64 seeks to amend section 234A of the Income-tax Act relating to interest for defaults in furnishing return of income.

It is proposed to amend sub-section (1) of the said section to provide that an assessee shall be liable to pay simple interest for furnishing after due date or not furnishing a return under sub-section (8A) in addition to return under sub-section (1) or sub-section (4) of section 139.

It is further proposed to amend *Explanation* 2 of the sub-section to provide that,—

(i) "tax on total income as determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 140B or section 143 and

(ii) "tax on total income determined under such regular assessment" shall not include the additional income-tax payable under section 140B.

These amendments will take effect from 1st April, 2022.

Clause 65 seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

It is proposed to amend *Explanation* 3 to sub-section (1) of the said section to provide that,—

(i) "tax on total income as determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 140B or section 143 and

(ii) "tax on total income determined under such regular assessment" shall not include the additional income-tax payable under section 140B.

This amendment will take effect from 1st April, 2022.

Clause 66 seeks to insert a new section 239A in the Income-tax Act relating to refund for denying liability to deduct tax in certain cases.

The proposed new section provides that where under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government claims that no tax was required to be deducted on such income, he may file an application before the Assessing Officer for refund of such tax deducted and such application shall be filed by such person only after within a period of thirty days from the date of payment of such tax, in such form and manner as may be provided by rules.

Further, it is proposed that the Assessing Officer shall dispose of the abovementioned application for refund within a period of six months from the end of the month in which such application has been received, after making any such enquiry as he may consider necessary. The Assessing Officer may allow or reject such application by an order in writing, however, no such application shall be rejected unless an opportunity of being heard is given to the applicant.

This amendment will take effect from lst April, 2022.

Clause 67 seeks to amend section 245MA of the Income-tax Act relating to Dispute Resolution Committee.

The said section, *inter alia*, provides that the Central Government shall constitute one or more Dispute Resolution Committees, for specified persons who may opt for dispute resolution under the said section and who fulfil specified conditions mentioned in the said section.

It is proposed to insert a new sub-section (2A) in the said section to provide that notwithstanding anything contained in section 144C, upon receipt of order of the Dispute Resolution Committee, the Assessing Officer shall in a case where the specified order is a draft of the proposed order of assessment under sub-section (1) of section 144C, pass an order of assessment, reassessment or recomputation or in any other case, modify the order of assessment, reassessment or recomputation, which shall be passed in conformity with the directions contained in such order of the Dispute Resolution Committee, within a period of one month from the end of the month in which such order is received.

This amendment will take effect from 1st April, 2022.

Clause 68 seeks to amend section 246A of the Income-tax Act relating to appealable orders before Commissioner (Appeals).

Sub-section (1) of the said section provides for categories of orders against which appeal can be filed before the Commissioner (Appeals).

It is proposed to insert a new clause (ia) in the said sub-section to provide that the orders passed by an Assessing Officer under section 239A shall be appealable before the Commissioner (Appeals).

This amendment will take effect from lst April, 2022.

Clause 69 seeks to amend section 248 of the Income-tax Act relating to appeal by a person denying liability to deduct tax in certain cases.

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

It is proposed to insert a proviso in the said section to provide that no appeal shall be filed under this section in a case where tax is paid to the credit of the Central Government on or after the 1st day of April, 2022.

This amendment will take effect from lst April, 2022.

Clause 70 seeks to amend the section 253 of the Income-tax Act relating to Appeals to the Appellate Tribunal.

The said section, *inter alia,* empowers the Central Government to notify a scheme for the purposes of appeal to the Appellate Tribunal so as to impart greater efficiency, transparency and accountability by—

(*a*) optimising utilisation of the resources through economies of scale and functional specialisation;

(*b*) introducing a team-based mechanism for appeal to the Appellate Tribunal, with dynamic jurisdiction.

Sub-section (9) of the said section further provides that for the purposes of giving effect to the aforesaid scheme, the Central Government may by notification in the Official Gazette direct that any of the provisions of the Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified.

It is proposed to amend the proviso to the said sub-section (9), extending the date for issuing directions for the purposes of the said sub-section from 31st day of March, 2022 to 31st day of March, 2024.

This amendment will take effect from 1st April, 2022.

Clause 71 seeks to amend section 255 of the Income-tax Act relating to procedure of Appellate Tribunal.

The said section, *inter alia,* empowers the Central Government to notify a scheme for the purposes of disposal of appeals by the Appellate Tribunal so as to impart greater efficiency, transparency and accountability by –

(a) eliminating the interface between the Appellate Tribunal and parties to the appeal in the course of appellate proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing an appellate system with dynamic jurisdiction.

Sub-section (8) of the said section further provides that for the purposes of giving effect to the aforesaid scheme, the Central Government may direct that any of the provisions of the Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified.

It is proposed to amend the proviso to the said sub-section (8), extending the date for issuing directions for the purposes of the said sub-section from 31st day of March, 2023 to 31st day of March, 2024.

This amendment will take effect from 1st April, 2022.

Clause 72 seeks to amend section 263 of the Income-tax Act relating to revision of orders prejudicial to revenue.

Sub-section (1) in the said section provides that the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may call for and examine the record of any proceedings under the Act, and if he considers that any order passed by the Assessing Officer under the Act is erroneous in so far as it is prejudicial to the interests of revenue, he may pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment, after making or causing to be made any such inquiry as he deems necessary.

It is proposed to provide that in addition to the existing provision, the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may call for and examine the record of any proceedings under the Act, and if he considers that any order passed by the Transfer Pricing Officer under the Act is erroneous in so far as it is prejudicial to the interests of revenue, he may pass such order thereon as the circumstances of the case justify, including an order modifying the order under section 92CA or cancelling the order under section 92CA and directing a fresh order under section 92CA, after making or causing to be made any such inquiry as he deems necessary. Such order shall be passed only after giving the assessee an opportunity of being heard.

It is further proposed to amend clause (a) of *Explanation* 1 to the said sub-section also to include an order under section 92CA by the Transfer Pricing Officer for the purposes of the said section.

It is also proposed that the clause (c) of the *Explanation* 1 to the sub-section (1) of the said section shall provide that where any order referred to in the said sub-section and passed by the Assessing Officer or the Transfer Pricing Officer, as the case may be, had been the subject matter of any appeal filed on or before or after the 1st day of June, 1988, the powers of the Principal Commissioner or Commissioner under this sub-section shall extend and shall be deemed always to have extended to such matters as had not been considered and decided in such appeal.

It is also proposed to amend the *Explanation* 2 to the sub-section (1) to make it applicable to an order passed by the Transfer Pricing Officer also.

It is also proposed to insert *Explanation* 3 in the sub-section (1) of the said section to define the expression “Transfer Pricing Officer”.

These amendments will take effect from lst April, 2022.

Clause 73 seeks to amend the section 271AAB of the Income-tax Act relating to penalty where search has been initiated. Sub-sections (1) and (1A) of the said section, *inter alia*, enables the Assessing Officer to levy penalty in cases where search has been initiated under section 132.

It is proposed to amend sub-sections (1) and (1A) of the said section to extend the powers to levy penalty to Commissioner (Appeals) also.

These amendments will take effect from 1st April, 2022.

The *Explanation* to the said section defines certain expressions for the purposes of the said section.

It is proposed to amend clause (a) of the said *Explanation* to make applicable a notice issued under section 148 also, in case where search is initiated on or after 1st April, 2021.

This amendment will take effect retrospectively from lst April, 2021.

Clause 74 seeks to amend the section 271AAC of the Income-tax Act relating to penalty in respect of certain income. Sub-section (1) of the said section, *inter alia*, enables Assessing Officer to levy penalty in cases where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year.

It is proposed to amend sub-section (1) of the said section, to extend the powers to levy penalty to the Commissioner (Appeals) also.

This amendment will take effect from 1st April, 2022.

Clause 75 seeks to amend the section 271AAD of the Income-tax Act relating to penalty for false entry, etc. in books of account.

The said section, *inter alia*, enables the Assessing Officer to levy penalty in cases where, during any proceeding, it is found that in the books of account maintained by any person there is a false entry or an omission of any entry which is relevant for computation of total income of such person, to evade tax liability.

It is proposed to amend sub-sections (1) and (2) of the said section to extend the powers to levy penalty to the Commissioner (Appeals) also.

This amendment will take effect from 1st April, 2022.

Clause 76 seeks to insert section 271AAE in the Income-tax Act relating to benefits to related persons.

The proposed new section provides that without prejudice to any other provisions of Chapter XXI of the Act, if during any proceedings under this Act, it is found that a person, being any fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via) of clause (23C) of section 10, or any trust or institution referred to in section 11 has violated the provisions of the twenty-first proviso to clause (23C) of section 10 or clause (c) of sub-section (1) of section 13, as the case may be, the Assessing Officer may direct that such person shall pay by way of penalty—

(a) a sum equal to the aggregate amount of income of such person applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section

(3) of section 13, where the violation is noticed for the first time during any previous year; and

(b) a sum equal to two hundred per cent. of the aggregate amount of income of such person applied, directly or indirectly, by that person, for the benefit of any person referred to in sub-section (3) of section 13, where violation is noticed again in any subsequent previous year.

This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Clause 77 seeks to amend the section 271C of the Income-tax Act relating to penalty for failure to deduct tax at source. It provides for penalty for failure to credit tax deducted at source to the Central Government or the tax payable by him as required by or under the second proviso to section 194B.

The first proviso to section 194B was omitted by the Finance Act, 1999 with effect from the 1st day of April, 2000 and the said section currently has only one proviso.

To give consequential effect, it is proposed to omit the word "second" in sub-clause (ii) of clause (b) of sub-section (1) of the section.

This amendment will take effect from lst April, 2022.

Clause 78 seeks to amend section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

It is proposed to increase the existing penalty under sub-section (2) from one hundred rupees to five hundred rupees.

This amendment will take effect from 1st April, 2022.

Clause 79 seeks to amend section 276AB of the Income-tax Act relating to failure to comply with the provisions of sections 269UC, 269UE and 269UL.

It is proposed to insert a second proviso to the said section so as to provide that no proceeding under this section shall be initiated on or after the 1st day of April, 2022.

This amendment will take effect from 1st April, 2022.

Clause 80 seeks to amend section 276B of the Income-tax Act relating to failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.

The first proviso to Section 194B was omitted vide the Finance Act, 1999 with effect from the 1st April, 2000 and the section currently has only one proviso.

It is proposed to omit the word "second" in the said section 276B.

This amendment will take effect from 1st April, 2022.

Clause 81 seeks to amend the section 276CC of the Income-tax Act relating to failure to furnish returns of income.

The proviso to the said section, *inter alia*, provides that a person shall not be proceeded against under the said section, for failure to furnish the return of income in due time, if a return is furnished by such person before the expiry of the assessment year or the tax payable by such person, not being a company, on the total income determined on regular assessment does not exceed rupees ten thousand.

It is proposed to amend sub-clause (a) of clause (ii) of the said proviso to provide that a person shall not be proceeded against under the said section for failure to furnish in due time the return of income under sub-section (1) of section 139, if such a person has furnished return under sub-section (8A) of section 139 for the relevant assessment year.

This amendment will take effect from 1st April, 2022.

Clause 82 seeks to amend the section 278A of the Income-tax Act relating to punishment for second and subsequent offences.

Section 276B provides for prosecution for failure to credit tax deducted at source to the Central Government and section 276BB provides for prosecution for failure to credit tax collected at source to the Central Government.

It is proposed to amend the said section 278A so as to bring section 276BB within the purview of said section.

This amendment will take effect from 1st April, 2022.

Clause 83 seeks to amend section 278AA of the Income-tax Act relating to punishment not to be imposed the certain cases.

Section 276B provides for prosecution for failure to credit tax deducted at source to the Central Government and section 276BB provides for prosecution for failure to credit tax collected at source to the Central Government.

It is proposed to amend the said section 278AA so as to bring section 276BB also within the purview of said section.

This amendment will take effect from 1st April, 2022.

Clause 84 seeks to substitute section 285B of the Income-tax Act relating to submission of statements by producers of cinematographic films.

The existing section provides that producers of cinematographic films shall furnish within thirty days from the end of the financial year or from the date of completion of the film, whichever is earlier, a statement containing particulars of all payments over fifty thousand rupees in the aggregate made by him or due from him to each person engaged by him.

It is proposed to substitute the said section to provide that any person carrying on the production of a cinematograph film or engaged in any specified activity, or both, during the whole or any part of any financial year shall, in respect of the period during which such production or specified activity is carried on by him in such financial year, furnish within the prescribed period, a statement in the prescribed form to the prescribed income tax authority in the prescribed manner, containing particulars of all payments of over fifty thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production or specified activity.

It is proposed to clarify that for the purposes of this section, "specified activity" means event management, documentary production, production of programmes for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

This amendment will take effect from 1st April, 2022.

Customs

Clause 85 seeks to amend clause (34) of section 2 of the Customs Act so as to provide that "proper officer", in relation to any functions to be performed under the said Act, means the officer of the customs who is assigned the functions by the Board or the Principal Commissioner of Customs or Commissioner of Customs under section 5 of the said Act.

Clause 86 seeks to substitute section 3 of the Customs Act so as to specify the classes of officers of customs, including the officers of the Directorate of Revenue Intelligence, officers of Customs (Preventive) and audit officers for various purposes, as the Board may specify.

Clause 87 seeks to amend section 5 of the Customs Act relating to the powers of the officers of customs. It is proposed to insert a new sub-section (1A) in the said section so as to empower the Board to assign by notification, such functions as he may deem fit, to an officer of customs, who shall be the proper officer in relation to such functions.

It is further proposed to insert a new sub-section (1B) in the said section so as to empower the Principal Commissioner of Customs or Commissioner of Customs within their jurisdiction to assign by order such functions as he may deem fit to an officer of customs, who shall be the proper officer in relation to such functions.

It is also proposed to insert a new sub-section (4) in said section so as to provide the criteria which the Board may consider while specifying the conditions and limitations imposed under sub-section (1) and assigning functions under sub-section (1A) to an officer of customs.

It is also proposed to insert a new sub-section (5) in the said section so as to empower the Board in certain cases to specify by notification two or more officers of customs, whether or not of the same class, to have concurrent power and functions under the said Act.

Clause 88 seeks to amend section 14 of the Customs Act so as to empower the Central Government to make rules enabling the Central Board of Indirect Taxes and Customs to

specify the additional obligations of the importer in respect of a class of imported goods, whose value is not being declared correctly, the criteria of selection of such goods, and the checks, including the circumstances and manner of exercise of such checks, in respect of such goods.

Clause 89 seeks to amend section 28E of the Customs Act so as to omit the *Explanation* to clause (c) relating to expression 'joint venture in India' and also to omit clause (h) of the said section.

Clause 90 seeks to amend sub-section (1) of section 28H of the Customs Act so as to provide that fee for application for advance ruling shall also be prescribed.

It further seeks to omit sub-section (3) and to amend sub-section (4) so as to provide that an applicant for advance ruling may withdraw his application at any time before a ruling is pronounced.

Clause 91 seeks to substitute sub-section (7) of section 28-1 of the Customs Act so as to remove reference to 'Members' from the said sub-section.

Clause 92 seeks to substitute sub-section (2) of section 28J of the Customs Act so as to provide that advance ruling under sub-section (1) of that section shall remain valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier.

It further seeks to insert a proviso in the said sub-section so as to provide that in respect of advance rulings in force on the date the Finance Bill, 2022 receives assent of the President, the said period of three years shall be reckoned from the date on which the said Finance Bill receives assent of the President.

Clause 93 seeks to insert a new section 110AA in the Customs Act so as to provide that where in pursuance of any proceeding under Chapter XIIA or Chapter XIII, if an officer of customs has reasons to believe that any duty has been short-levied, not levied, short-paid or not paid or any duty has been erroneously refunded or any drawback has been erroneously allowed or any interest has been short-levied, not levied, short-paid or not paid, or erroneously refunded, then such officer of customs shall, after inquiry, investigation, or audit, transfer the relevant documents, along with a report in writing to the proper officer having jurisdiction, in respect of assessment of such duty, or who allowed such refund or drawback, or to an officer to whom proper officer is subordinate.

It further seeks to provide that in case of multiple jurisdictions, such transfer shall be made to an officer of customs to whom such matter is assigned by the Board under section 5.

Clause 94 seeks to insert a new section 135AA in the Customs Act, so as to make punishable the publishing of information relating to the value or classification or quantity of goods entered for export from India, or import into India, or the details of the exporter or importer of such goods, unless required so to do under any law for the time being in force.

It further seeks to provide that nothing contained in the said section shall apply to any publication made by or on behalf of the Central Government.

Clause 95 seeks to insert the words, figures and letters "or section 135AA" in sub-section (1) of section 137 of the Customs Act so as to provide that no court shall take cognizance of any offence under the said section 135AA, except with the previous sanction of the Principal Commissioner of Customs or Commissioner of Customs.

Clause 96 seeks to give validation to any action taken or functions performed before the date of commencement of the Finance Act, 2022, under certain Chapters of the Customs Act and notifications issued thereunder for appointing an officer of customs or assigning functions, by giving retrospective effect to sections 2, 3 and 5 of the Customs Act as amended by this Act to that extent.

Customs Tariff

Clause 97 seeks to amend the First Schedule to the Customs Tariff Act —

(a) in the manner specified in the Second Schedule so as to revise the rates in respect of certain tariff items with effect from the 2nd February, 2022;

(b) in the manner specified in the Third Schedule with a view to harmonise certain entries with Harmonised System of Nomenclature to create new tariff lines in respect of certain entries and to revise the rates in respect of certain tariff items, with effect from the 1st May, 2022.

Excise

Clause 98 seeks to amend the Fourth Schedule to the Central Excise Act to insert two new tariff items 2710 12 43 and 2710 12 44 under sub-heading 2710 12 in Chapter 27 relating to E12 and E15 fuel blends, as new BIS specification IS 17586 has been issued for Ethanol Blended Petrol with percentage of ethanol upto twelve (E12) and fifteen (E15) percent, so as to align the Fourth Schedule to the Central Excise Act with the proposed amendments for the sub-heading 2710 12 in the First Schedule to the Customs Tariff Act, 1975, in the manner specified in Fourth Schedule.

This amendment will take effect from the date on which the Finance Bill, 2022 receives the assent of the President.

Central Goods and Services Tax

Clause 99 seeks to amend section 16 of the Central Goods and Services Tax Act, 2017 by inserting a new clause (ba) in sub-section (2) thereof, so as to provide that input tax credit with respect to a supply may be availed only when such credit has not been restricted in the details communicated to the registered person under section 38.

It further seeks to amend sub-section (4) so as to provide that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note after the thirtieth day of November following the end of the financial year to which such invoice or debit note pertains, or furnishing of the relevant annual return, whichever is earlier.

Clause 100 seeks to amend clause (b) of sub-section (2) of section 29 of the Central Goods and Services Tax Act so as to provide that the registration of a person paying tax under section 10 is liable to be cancelled if the return for a financial year has not been furnished beyond three months from the due date of furnishing of the said return.

It further seeks to amend clause (c) of the said sub-section (2) so as to provide for prescribing continuous tax periods for which return has not been furnished, which would make a registration liable for cancellation, in respect of any registered person, other than a person specified in clause (b) thereof.

Clause 101 seeks to amend sub-section (2) of section 34 of the Central Goods and Services Tax Act so as to provide for thirtieth day of November following the end of the financial year, or the date of furnishing of the relevant annual return, whichever is earlier, as the last date for issuance of credit notes in respect of any supply made in a financial year.

Clause 102 seeks to amend sub-section (1) of section 37 of the Central Goods and Services Tax Act so as to provide for prescribing conditions and restrictions for furnishing the details of outward supply and the conditions and restrictions as well as manner and time for communication of the details of such outward supplies to concerned recipients.

It further seeks to omit sub-section (2) and first proviso to sub-section (1) so as to do away with two-way communication process in return filing.

It also seeks to amend sub-section (3) so as to remove reference to unmatched details under section 42 or section 43, as the said sections are proposed to be omitted, and to provide for thirtieth day of November following the end of the financial year or furnishing of the relevant annual return, whichever is earlier, as the last date for rectification of errors or omission in respect of details of outward supplies furnished under sub-section (1).

It also seeks to insert sub-section (4) so as to provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).

Clause 103 seeks to substitute a new section for section 38 of the Central Goods and Services Tax Act. Sub section (1) seeks to provide for prescribing such other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Sub-section (2) seeks to provide for the details of inward supplies in respect of which input tax credit may be availed and the details of supplies on which input tax credit cannot be availed by the recipient.

Clause 104 seeks to amend sub-section (5) of section 39 of the Central Goods and Services Tax Act so as to provide that the non-resident taxable person shall furnish the return for a month within thirteen days after the end of the month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

It further seeks to substitute the first proviso to sub-section (7) so as to provide an option to the persons furnishing return under proviso to sub-section (1) to pay either the self-assessed tax or an amount that may be prescribed.

It also seeks to amend sub-section (9) by removing reference of section 37 and section 38 and to amend the proviso to said sub-section (9) so as to provide for thirtieth day of November following the end of the financial year, or the date of furnishing of the relevant annual return, whichever is earlier, as the last date for the rectification of errors in the return furnished under section 39.

It also seeks to amend sub-section (10) so as to provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.

Clause 105 seeks to substitute a new section for section 41 of the Central Goods and Services Tax Act so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed.

Clause 106 seeks to omit section 42 of the Central Goods and Services Tax Act relating to matching, reversal and reclaiming of input tax credit so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and subsequent matching, reversals and reclaim of such credit. It further seeks to omit section 43 relating to matching, reversal and reclaim of reduction in output tax liability so as to do away with two-way communication process in return filing. It also seeks to omit section 43A.

Clause 107 seeks to amend sub-section (1) of section 47 of the Central Goods and Services Tax Act so as to provide for levy of late fee for delayed filing of return under section 52 and to remove reference of section 38 as there is no requirement of furnishing details of inward supplies by the registered person under the said section 38.

Clause 108 seeks to amend sub-section (2) of section 48 of the Central Goods and Services Tax Act so as to remove reference to section 38 therefrom as there is no requirement of furnishing details of inward supplies by the registered person under the said section 38.

Clause 109 seeks to amend sub-section (4) of section 49 of the Central Goods and Services Tax Act so as to provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger.

It further seeks to amend sub-section (10) so as to allow transfer of amount available in electronic cash ledger under the Central Goods and Services Tax Act of a registered person to the electronic cash ledger under the said Act or the Integrated Goods and Services Tax Act of a distinct person.

It also seeks to insert sub-section (12) so as to provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

Clause 110 seeks to substitute a new sub-section for sub-section (3) of section 50 of the Central Goods and Services Tax Act, retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilised, and to provide for prescribing manner of calculation of interest in such cases.

Clause 111 seeks to amend proviso to sub-section (6) of section 52 of the Central Goods and Services Tax Act so as to provide for thirtieth day of November following the end of the financial year, or the date of furnishing of the relevant annual return, whichever is earlier, as the last date upto which the rectification of errors shall be allowed in the statement furnished under sub-section (4).

Clause 112 seeks to amend proviso to sub-section (1) of section 54 of the Central Goods and Services Tax Act so as to explicitly provide that claim of refund of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed.

It further seeks to amend sub-section (2) so as to align it with sub-section (1) by providing time limit of two years from the last day of the quarter in which the supply was received for claiming refund of tax paid on inward supplies of goods or services or both by the person specified in the said sub-section.

It also seeks to amend sub-section (10) so as to extend the scope of the said sub-section to all types of refund claims.

It also seeks to insert a new sub-clause (ba) in clause (2) of *Explanation* in order to provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit.

Clause 113 o seeks to amend sub-section (2) of section 168 of the Central Goods and Services Tax Act so as to remove reference to section 38 therefrom.

Clause 114 seeks to amend notification number G.S.R. 58(E), dated the 23rd January, 2018 to notify www.gst.gov.in, retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, save as otherwise provided in the notification issued *vide* number G.S.R. 925 (E), dated the 13th December, 2019.

Clause 115 seeks to amend notification number G.S.R. 661(E), dated the 28th June, 2017, so as to notify rate of interest under sub-section (3) of section 50 of the Central Goods and Services Tax Act as 18%, retrospectively, with effect from the 1st day of July, 2017.

Clause 116 seeks to provide retrospective exemption from central tax in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period from the 1st day of July, 2017 upto the 30th day of September, 2019 (both days inclusive).

It further seeks to provide that no refund shall be made of the said tax which has already been collected.

Clause 117 seeks to give retrospective effect to the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 746(E), dated the 30th September, 2019 with effect from the 1st day of July, 2017.

It further seeks to provide that no refund shall be made of the central tax which has already been collected.

Integrated Goods and Services Tax

Clause 118 seeks to amend notification number G.S.R. 698(E), dated the 28th June, 2017, so as to notify rate of interest under sub-section (3) of section 50 of the Central Goods and Services Tax Act as 18%, retrospectively, with effect from the 1st day of July, 2017.

Clause 119 seeks to provide retrospective exemption from integrated tax in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period from the 1st day of July, 2017 upto the 30th day of September, 2019 (both days inclusive).

It further seeks to provide that no refund shall be made of the said tax which has already been collected.

Clause 120 seeks to give retrospective effect to the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 745(E), dated the 30th September,2019 with effect from the 1st day of July,2017.

It further seeks to provide that no refund shall be made of the integrated tax which has already been collected.

Union Territory Goods and Services Tax

Clause 121 seeks to amend notification number G.S.R. 747(E), dated the 30th June, 2017, so as to notify rate of interest under sub-section (3) of section 50 of the Central Goods and Services Tax Act as 18%, retrospectively, with effect from the 1st day of July, 2017.

Clause 122 seeks to provide retrospective exemption from Union territory tax in respect of supply of unintended waste generated during the production of fish meal (falling under heading 2301), except for fish oil, during the period from the 1st day of July, 2017 upto the 30th day of September, 2019 (both days inclusive).

It further seeks to provide that no refund shall be made of the said tax which has already been collected.

Clause 123 seeks to give retrospective effect to the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 747(E), dated the 30th September, 2019 with effect from the 1st day of July, 2017.

It further seeks to provide that no refund shall be made of the Union territory tax which has already been collected.

Miscellaneous

Clause 124 seeks to amend sections 2 and 22 of the Reserve Bank of India Act, 1934.

It is proposed to provide clarity in section 2 of the said Act that the Central Bank Digital Currency should also be regarded as bank notes.

It is further proposed to insert a new section 22A relating to non-applicability of sections 24, 25, 27, 28 and 39 of the said Act to digital form of bank notes.

Clause 125 seeks to amend the Seventh Schedule to the Finance Act, 2001 to substitute tariff item 2709 20 00 and the entries relating thereto with tariff item 2709 00 10 so as to align the said Schedule with the Fourth Schedule to the Central Excise Act, 1944 in the manner specified in the Ninth Schedule.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Clause (23C) of the said section provides for exemption to the income of certain entities.

Sub-clause (b) of clause 4 of the Bill provides for amendment to the provisions of clause (23C) of section 10 of the Income-tax Act.

Explanation 3 to the third proviso of clause (23C) of the said section provides for the form and manner in which the person referred to therein shall furnish a statement for the purposes of determining the amount of application under this proviso.

It is proposed to amend the tenth proviso to the said clause (23C) of the said section. Clause (a) of the said proviso provides for form, manner and place for keeping and maintaining the books of account and other documents to be provided by rules. Clause (b) of the said proviso provides for the form and manner in which the report of such audit shall be signed and verified by the accountant and setting forth such particulars, as may be provided by rules.

Clause 6 seeks to amend section 12A of the Income-tax Act relating to conditions for applicability of sections 11 and 12.

Clause (b) of sub-section (1) of the said section 12A provides that the provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless, *inter-alia*, where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 before the specified date referred to in section 44AB and the person in receipt of the income furnishes by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be provided by rules.

It is proposed to substitute the said clause to provide that in addition to the condition requiring the trust or institutions, having income exceeding the maximum amount not chargeable to tax, to get their accounts audited, such trusts shall also be required to keep and maintain books of account and other documents in such form and manner and at such place, as may be provided by rules.

Clause 31 seeks to amend section 115TD of the Income-tax Act relating to tax on accreted income. The proposed sub-section (2) of the said section provides that the accreted income for the purposes of sub-section (1) means the amount by which the aggregate fair market value of the total assets of the specified person, as on the specified date, exceeds the total liability of such specified person, computed in accordance with the method of valuation, as may be provided by rules.

Clause 38 seeks to amend section 139 of the Income-tax Act relating to return of income.

It is proposed to insert a new sub-section (8A) in the said section to provide that any person, whether or not he has furnished a return under sub-section (1), sub-section (4) or sub-section (5), for an assessment year (herein referred to as the relevant assessment year), may furnish an updated return of his income or the income of any other person in respect of which he is assessable under the Income-tax Act, for the previous year relevant to such assessment year, in the prescribed form, verified in the manner and setting forth such particulars as may be provided by rules, at any time within twenty-four months from the end of the relevant assessment year.

Clause 54 seeks to insert a new section 170A of the Income-tax Act relating to effect of order of tribunal or court in respect of business reorgainsation.

It is proposed to provide that notwithstanding anything to the contrary contained in section 139 in case of business reorganisation, where prior to the date of order of a High Court or tribunal or an adjudicating authority, as the case may be, any return of income had been furnished by the successor under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, such successor shall furnish a modified return within a period of six months in such form and manner as may be provided by rules.

Clause 66 seeks to insert a new section 239A in the Income-tax Act relating to refund for denying liability to deduct tax in certain cases.

The proposed new section provides that where under an agreement or other arrangement, in writing, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person claims that no tax was required to be deducted on such income, he may file an application before the Assessing Officer for refund of such tax deducted and such application shall be filed by such person only after having paid such tax to the credit of the Central Government within a period of thirty days from the date of payment of such tax, in such form and manner as may be provided by rules.

Indirect Taxes

Clause 100 seeks to amend clause (c) of sub-section (2) of section 29 of the Central Goods and Services Tax Act so as to provide by rules continuous tax periods for which return has not been furnished, which would make a registration liable for cancellation, in respect of any registered person, other than a person specified in clause (b) thereof.

Clause 103 seeks to substitute a new section for section 38 of the Central Goods and Services Tax Act. Sub-section (1) seeks to empower the Central Government to make rules to specify other supplies as well as the manner, time, conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.

Clause 105 seeks to substitute a new section for section 41 of the Central Goods and Services Tax Act so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be provided by rules.

Clause 109 seeks to amend section 49 of the Central Goods and Services Tax Act to insert sub-section (12) so as to empower the Central Government to make rules to specify maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

Clause 110 seeks to substitute a new sub-section for sub-section (3) of section 50 of the Central Goods and Services Tax Act so as to provide for levy of interest on input tax credit wrongly availed and utilised, and to provide by rules the manner of calculation of interest in such cases.

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

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

LOK SABHA

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to give effect to the financial proposals of the Central Government
for the financial year 2022-2023.

(Smt. Nirmala Sitharaman,
Minister of Finance.)