

<sup>1</sup>[(g) by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, <sup>2</sup>[being a company eligible for deduction under clause (viii) of sub-section (I) of section 36 on any moneys borrowed by it in foreign currency from sources outside India under <sup>3</sup>[a loan agreement approved by the Central Government before the 1st day of June, 2003], to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.]

*Explanation.*—For the purposes of <sup>4</sup>[items (f), (fa) and (g)], the expression “foreign currency” shall have the meaning assigned to it in the <sup>5</sup>[Foreign Exchange Management Act, 1999 (42 of 1999)];]

<sup>6</sup>[(h) by any public sector company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

<sup>7</sup>[(i) by Government on deposits made by an employee of the Central Government or a State Government <sup>8</sup>[or a public sector company], in accordance with such scheme as the Central Government may, by notification in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise.]

<sup>9</sup>[<sup>10</sup>[*Explanation 1*].—For the purposes of this sub-clause, the expression “industrial undertaking” means any undertaking which is engaged in—

(a) the manufacture or processing of goods; or

<sup>11</sup>[(aa) the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or]

(b) the business of generation or distribution of electricity or any other form of power; or

<sup>12</sup>[(ba) the business of providing telecommunication services; or]

(c) mining; or

(d) the construction of ships; or

<sup>13</sup>[(da) the business of ship-breaking; or]

<sup>14</sup>[(e) the operation of ships or aircrafts or construction or operation of rail systems.]]

<sup>15</sup>[*Explanation 1A*.—For the purposes of this sub-clause, the expression “interest” shall not include interest paid on delayed payment of loan or on default if it is in excess of two per cent. per annum over the rate of interest payable in terms of such loan.]

<sup>16</sup>[*Explanation 2*.—For the purposes of this clause, the expression “interest” includes hedging transaction charges on account of currency fluctuation;]

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1. Ins. by Act 11 of 1983, s. 5 (w.e.f. 1-4-1983).

2. Subs. by Act 10 of 2000, s. 5, for “being a company approved by the Central Government for the purposes of clause (viii) of sub-section (I) of section 36” (w.e.f. 1-4-2000).

3. Subs. by Act 32 of 2003, s. 6, for “a loan agreement approved by the Central Government” (w.e.f. 1-4-2004).

4. Subs. by Act 49 of 1991, s. 5 for “items (f) and (g)” (w.e.f. 1-4-1991).

5. Subs. by Act 17 of 2013, s. 4, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

6. Ins. by Act 11 of 1987, s. 4 (w.e.f. 1-4-1987).

7. Ins. by Act 13 of 1989, s. 4 (w.e.f. 1-4-1990).

8. Ins. by Act 12 of 1990, s. 5 (w.e.f. 1-4-1991).

9. Ins. by Act 49 of 1991, s. 5 (w.e.f. 1-4-1991).

10. *Explanation* renumbered as *Explanation 1* thereof by the Act 27 of 1999, s. 6 (w.e.f. 1-4-2000).

11. Ins. by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

12. Ins. by 26 of 1997, s. 3 (w.e.f. 1-4-1998).

13. Ins. by Act 54 of 2003, s. 2 (w.e.f. 1-4-1991).

14. Subs. by Act 33 of 1996, s. 4, for clause (e) (w.e.f. 1-4-1997).

15. Subs. by Act 24 of 2001, s. 5, for *Explanation 1A* (w.e.f. 1-4-2002).

16. Ins. by Act 27 of 1999, s. 6 (w.e.f. 1-4-2000)

<sup>1</sup>[(v) interest on—

(a) securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank's SGL Account No. SL/DH 048;

(b) deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account, with the Reserve Bank of India or with a public sector bank, as the Central Government may, by notification in the Official Gazette, specify, whether prospectively or retrospectively but in no case earlier than the 1st day of April, 1994 in this behalf.

*Explanation.*—For the purposes of this sub-clause, the expression “public sector bank” shall have the meaning assigned to it in the *Explanation* to clause (23D);]

<sup>2</sup>[(vi) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 <sup>3</sup>[or deposit certificates issued under the Gold Monetisation Scheme, 2015] notified by the Central Government;

<sup>4</sup>[(vii) interest on bonds—

(a) issued by a local authority or by a State Pooled Finance Entity; and

(b) specified by the Central Government by notification in the Official Gazette.

*Explanation.*—For the purposes of this sub-clause, the expression “State Pooled Finance Entity” shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;]

<sup>5</sup>[(viii) any income by way of interest received by a non-resident or a person who is not ordinarily resident, in India on a deposit made on or after the 1st day of April, 2005, in an Offshore Banking Unit referred to in clause (u) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);]

<sup>6</sup>[(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the Government of a foreign State or a foreign enterprise under an agreement <sup>7</sup> <sup>8</sup>[, not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999,] and] approved by the Central Government in this behalf:

<sup>9</sup>[Provided that nothing contained in this clause shall apply to any such agreement entered into on or after the <sup>10</sup>[1st day of April, [2007].]

*Explanation.*—For the purposes of this clause, the expression “foreign enterprise” means a person who is a non-resident;]

(16) scholarships granted to meet the cost of education;

<sup>11</sup>[(17) any income by way of—

(i) daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof; <sup>12</sup>\*\*\*

<sup>13</sup>[(ii) any allowance received by any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986;

<sup>14</sup>[(iii) any constituency allowance received by any person by reason of his membership of any State Legislature under any Act or rules made by that State Legislature;]]]

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1. Subs. by Act 22 of 1995, s. 4, for sub-clause (v) (w.e.f. 1-4-1995).

2. Ins. by Act 27 of 1999, s. 6 (w.e.f. 1-4-2000).

3. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2016).

4. Subs. by Act 22 of 2007, s. 6, for sub-clause (vii) (w.e.f. 1-4-2008).

5. Ins. by Act 28 of 2005, s. 27 and the second Schedule (w.e.f. 10-2-2006).

6. Subs. by Act 22 of 1995, s. 4, for clause (15A) (w.e.f. 1-4-1996).

7. Ins. by 26 of 1997, s. 3 (w.e.f. 1-4-1998).

8. Subs. by Act 27 of 1999, s. 6 “entered before the 1<sup>st</sup> day of April, 1997” (w.e.f. 1-4-2000).

9. Ins. by Act 23 of 2004, s. 5 (w.e.f. 1-4-2006).

10. Subs. by Act 21 of 2006, s. 4, for “the 1st day of April, 2006” (w.e.f. 1-4-2007).

11. Subs. by Act 46 of 1986, s. 3, for clause (17) (w.e.f. 1-4-1986).

12. The word “and” omitted by Act 11 of 1987, s. 4 (w.e.f. 1-4-1986).

13. Subs. by s. 4, *ibid.*, for sub-clause (ii) (w.e.f. 1-4-1986).

14. Subs. by Act 21 of 2006, s. 4, for sub-clause (iii) (w.e.f. 1-4-2007).

<sup>1</sup>[(17A) any payment made, whether in cash or in kind,—

(i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or

(ii) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;]

<sup>2</sup>[(18) any income by way of—

(i) pension received by an individual who has been in the service of the Central Government or State Government and has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(ii) family pension received by any member of the family of an individual referred to in sub-clause (i).

*Explanation.*—For the purposes of this clause, the expression “family” shall have the meaning assigned to it in the *Explanation* to clause (5);]

<sup>3</sup>\* \* \* \* \*

<sup>4</sup>[(19) family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed;]

<sup>5</sup>[(19A) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was exempt from income-tax before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949, or the Part B States (Taxation Concessions) Order, 1950, or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax;]

(20) the income of a local authority which is chargeable under the head <sup>6</sup>\*\*\* “Income from house property”, “Capital gains” or “Income from other sources” or from a trade or business carried on by it <sup>7</sup>[which accrues or arises from the supply of a commodity or service (not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area].

<sup>8</sup>[*Explanation.*—For the purposes of this clause, the expression “local authority” means—

(i) Panchayat as referred to in clause (d) of article 243 of the Constitution; or

(ii) Municipality as referred to in clause (e) of article 243P of the Constitution; or

(iii) Municipal Committee and District Board,

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1. Subs. by Act 4 of 1988, s. 6, for clauses (17A), (17B) and (18) (w.e.f. 1-4-1989).

2. Ins. by Act 27 of 1999, s. 6 (w.e.f. 1-4-2000).

3. Clause (18A) omitted by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

4. Ins. by Act 23 of 2004, s. 5 (w.e.f. 1-4-2005).

5. Ins. by Act 54 of 1972, s. 7 (w.e.f. 28-12-1971).

6. The words “Interest on securities” omitted by Act 26 of 1988, s. 4 (w.e.f. 1-4-1989).

7. Subs. by Act 32 of 1971, s. 4, for “which accrues or arises from the supply of a commodity or service within its own jurisdictional area” (w.e.f. 1-4-1972).

8. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).



to in clause (b) of the first proviso to this clause, subject to the condition that such voluntary contribution is not held by the <sup>1</sup>[research association], otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:

Provided also] that nothing contained in this clause shall apply in relation to any income of the <sup>1</sup>[research association], being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:]

<sup>2</sup>[Provided also that where the <sup>1</sup>[research association] is approved by the Central Government and subsequently that Government is satisfied that—

(i) the <sup>1</sup>[research association] has not applied its income in accordance with the provisions contained in clause (a) of the first proviso; or

(ii) the <sup>1</sup>[research association] has not invested or deposited its funds in accordance with the provisions contained in clause (b) of the first proviso; or

(iii) the activities of the <sup>1</sup>[research association] are not genuine; or

(iv) the activities of the <sup>1</sup>[research association] are not being carried out in accordance with all or any of the conditions subject to which such association was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association and to the Assessing Officer;]

<sup>3</sup>\* \* \* \*

<sup>4</sup>[(22B) any income of such news agency set up in India solely for collection and distribution of news as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members:

Provided further that any notification issued by the Central Government under this clause shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

<sup>2</sup>[Provided also that where the news agency has been specified, by notification, by the Central Government and subsequently that Government is satisfied that such news agency has not applied or accumulated or distributed its income in accordance with the provisions contained in the first proviso, it may, at any time after giving a reasonable opportunity of showing cause, rescind the notification and forward a copy of the order rescinding the notification to such agency and to the Assessing Officer;]

<sup>5</sup>\* \* \* \*

1. Subs. by Act 14 of 2010, s. 5, for “scientific research association” (w.e.f. 1-4-2011).

2. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

3. Clause (22) and (22A) omitted by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

4. Ins. by Act 32 of 1994, s. 6 (w.e.f. 1-4-1994).

5. Clause (23) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003). Earlier Clause (23) omitted by Act 4 of 1988, s. 6 (w.e.f. 1-4-1989) and then restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

<sup>1</sup>[(23A) any income (other than income chargeable under the head<sup>2\*\*\*\*</sup>“Income from house property” or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of an association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other profession as the Central Government may specify in this behalf, from time to time, by notification in the Official Gazette:

Provided that—

(i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

(ii) the association or institution is for the time being approved for the purpose of this clause by the Central Government by general or special order:]

<sup>3</sup>[Provided further that where the association or institution has been approved by the Central Government and subsequently that Government is satisfied that—

(i) such association or institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or

(ii) the activities of the association or institution are not being carried out in accordance with all or any of the conditions subject to which such association or institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association or institution and to the Assessing Officer;]

<sup>4</sup>[(23AA) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants;]

<sup>5</sup>[(23AAA) any income received by any person on behalf of a fund established, for such purposes as may be notified by the Board in the Official Gazette, for the welfare of employees or their dependants and of which fund such employees are members if such fund fulfils the following conditions, namely:—

(a) the fund—

(i) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(ii) invests its funds and contributions and other sums received by it in the forms or modes specified in sub-section (5) of section 11;

(b) the fund is approved by the <sup>6</sup>[Principal Commissioner or Commissioner] in accordance with the rules made in this behalf:

Provided that any such approval shall at any one time have effect for such assessment year or years not exceeding three assessment years as may be specified in the order of approval;]

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1. Ins. by Act 15 of 1965, s. 3 (w.e.f. 1-4-1962).

2. The words “Interest on securities” or’ omitted by Act 26 of 1988, s. 4 (w.e.f. 1-4-1989).

3. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

4. Ins. by Act 44 of 1980, s. 4 (w.e.f. 1-4-1962).

5. Ins. by Act 22 of 1995, s. 4 (w.e.f. 1-4-1996).

6. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013).

<sup>1</sup>[(23AAB) any income of a fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 <sup>2</sup>[or any other insurer under a pension scheme],—

(i) to which contribution is made by any person for the purpose of receiving pension from such fund;

(ii) which is approved by the Controller of Insurance <sup>3</sup>[or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), as the case may be].

*Explanation.*—For the purposes of this clause, the expression “Controller of Insurance” shall have the meaning assigned to it in clause (5B) of section 2 of the Insurance Act, 1938 (4 of 1938);]

<sup>4</sup>[(23B) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries:

Provided that—

(i) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and

(ii) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission:

Provided further that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted:

<sup>5</sup>[Provided also that where the institution has been approved by the Khadi and Village Industries Commission and subsequently that Commission is satisfied that—

(i) the institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or

(ii) the activities of the institution are not being carried out in accordance with all or any of the conditions subject to which such institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such institution and to the Assessing Officer.]

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

(i) “Khadi and Village Industries Commission” means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956);

(ii) “khadi” and “village industries” have the meanings respectively assigned to them in that Act;]

<sup>6</sup>[(23BB) any income of an authority (whether known as the Khadi and Village Industries Board or by any other name) established in a State by or under a State or Provincial Act for the development of khadi or village industries in the State.

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1. Ins. by Act 33 of 1996, s. 4 (w.e.f. 1-4-1997).

2. Subs. by Act 14 of 2001, s. 5, for “under a pension scheme” (w.e.f. 1-4-2002).

3. Ins. by s. 5, *ibid.* (w.e.f. 1-4-2002).

4. Ins. by Act 20 of 1974, s. 3 (w.e.f. 1-6-1974).

5. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

6. Ins. by Act 21 of 1979, s. 3 (w.e.f. 1-4-1962).

*Explanation.*—For the purposes of this clause, “khadi” and “village industries” have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956);

(23BBA) any income of any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central, State or Provincial Act which provides for the administration of any one or more of the following, that is to say, public religious or charitable trusts or endowments (including maths, temples, gurdwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or societies for religious or charitable purposes registered as such under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force:

Provided that nothing in this clause shall be construed to exempt from tax the income of any trust, endowment or society referred to therein;]

<sup>1</sup>[(23BBB) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf.

*Explanation.*—For the purposes of this clause, “European Economic Community” means the European Economic Community established by the Treaty of Rome of 25th March, 1957;]

<sup>2</sup>[(23BBC) any income of the SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st day of December, 1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Cooperation;]

<sup>3</sup>[(23BBD) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as “ASOSAI-SECRETARIAT” under the Societies Registration Act, 1860 (21 of 1860) for <sup>4</sup>[ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011];

(23BBE) any income of the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]

<sup>5</sup>[(23BBF) any income of the North-Eastern Development Finance Corporation Limited, being a company formed and registered under the Companies Act, 1956 (1 of 1956):

Provided that in computing the total income of the North-Eastern Development Finance Corporation Limited, the amount to the extent of—

(i) twenty per cent. of the total income for assessment year beginning on the 1st day of April, 2006;

(ii) forty per cent. of the total income for assessment year beginning on the 1st day of April, 2007;

(iii) sixty per cent. of the total income for assessment year beginning on the 1st day of April, 2008;

(iv) eighty per cent. of the total income for assessment year beginning on the 1st day of April, 2009;

(v) one hundred per cent. of the total income for assessment year beginning on the 1st day of April, 2010 and any subsequent assessment year or years,  
shall be included in such total income;]

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1. Ins. by Act 38 of 1993, s. 3 (w.e.f. 1-4-1994).

2. Ins. by Act 33 of 1996, s. 4 (w.e.f. 1-4-1992).

3. Ins. by Act 14 of 2001, s. 5 (w.e.f. 1-4-2001).

4. Subs. by Act 22 of 2007, s. 6, for certain words, figures and letters (w.e.f. 1-4-2008).

5. Ins. by Act 29 of 2006, s. 3 (w.e.f. 1-4-2006).



<sup>1</sup>[(23BBG) any income of the Central Electricity Regulatory Commission constituted under sub-section (1) of section 76 of the Electricity Act, 2003 (36 of 2003);]

<sup>2</sup>[(23BBH) any income of the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990);]

<sup>3</sup>[(23C) any income received by any person on behalf of—

(i) the Prime Minister's National Relief Fund; or

(ii) the Prime Minister's Fund (Promotion of Folk Art); or

(iii) the Prime Minister's Aid to Students Fund; or

<sup>4</sup>[(iiia) the National Foundation for Communal Harmony; or]

<sup>5</sup>[(iiiaa) the Swachh Bharat Kosh, set up by the Central Government; or

(iiiaaa) the Clean Ganga Fund, set up by the Central Government; or]

<sup>6</sup>[(iiiata) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory as referred to in sub-clause (iiihf) of clause (a) of sub-section (2) of section 80G; or

<sup>7</sup>[(iiiaab) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiiaac) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, and which is wholly or substantially financed by the Government.

<sup>8</sup>[*Explanation.*—For the purposes of sub-clauses (iiiaab) and (iiiaac), any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year;] or

(iiiaad) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed; or

(iiiaae) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed; or]

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1. Ins. by Act 22 of 2007, s. 6 (w.e.f. 1-4-2008).

2. Ins. by Act 23 of 2012, s. 5 (w.e.f. 1-4-2013).

3. Ins. by Act 41 of 1975, s. 3 (w.e.f. 1-4-1976).

4. Ins. by Act 38 of 1993, s. 3 (w.e.f. 1-4-1993).

5. Ins. by Act 20 of 2015, s. 7 (w.e.f. 1-4-2015).

6. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-1998).

7. Ins. by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

8. Ins. by Act 25 of 2014, s. 5 (w.e.f. 1-4-2015).

<sup>1</sup>[(*iv*) any other fund or institution established for charitable purposes <sup>2</sup>[which may be approved by the prescribed authority], having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(*v*) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, <sup>2</sup>[which may be approved by the prescribed authority], having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof;

<sup>3</sup>[(*vi*) any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (*iiiab*) or sub-clause (*iiiad*) and which may be approved by the prescribed authority; or

(*via*) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (*iiiac*) or sub-clause (*iiiae*) and which may be approved by the prescribed authority:]

Provided that the fund or trust or institution <sup>3</sup>[or any university or other educational institution or any hospital or other medical institution] referred to in sub-clause (*iv*) or sub-clause (*v*) <sup>3</sup>[or sub-clause (*vi*) or sub-clause (*via*)] shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under sub-clause (*iv*) or sub-clause (*v*) <sup>3</sup>[or sub-clause (*vi*) or sub-clause (*via*)]:

<sup>4</sup>[Provided further that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the prescribed authority may also make such inquiries as it deems necessary in this behalf:]

Provided also that the fund or trust or institution <sup>3</sup>[or any university or other educational institution or any hospital or other medical institution] referred to in sub-clause (*iv*) or sub-clause (*v*) <sup>3</sup>[or sub-clause (*vi*) or sub-clause (*via*)]—

<sup>5</sup>[(*a*) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case where 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; and]

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1. Subs. by Act 3 of 1989, s. 4, for sub-clauses (*iv*) and (*v*) (w.e.f. 1-4-1990).

2. Subs. by Act 22 of 2007, s. 6, for “which may be notified by the Central Government in the Official Gazette.” (w.e.f. 1-6-2007)

3. Ins. by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

4. Subs. by Act 22 of 2007, s. 6, for the proviso (w.e.f. 1-6-2007).

5. Subs. by Act 20 of 2002, s. 4, for clause (*a*) (w.e.f. 1-4-2003).

<sup>1</sup>[(b) does not invest or deposit its funds, other than—

(i) any assets held by the fund, trust or institution <sup>2</sup>[or any university or other educational institution or any hospital or other medical institution] where such assets form part of the corpus of the fund, trust or institution <sup>2</sup>[or any university or other educational institution or any hospital or other medical institution] as on the 1st day of June, 1973;

<sup>3</sup>[(ia) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998;]

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution <sup>2</sup>[or any university or other educational institution or any hospital or other medical institution] before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus mentioned in sub-clause (i) <sup>3</sup>[and sub-clause (ia)], by way of bonus shares allotted to the fund, trust or institution <sup>2</sup>[or any university or other educational institution or any hospital or other medical institution];

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:]

Provided also that the exemption under sub-clause (iv) or sub-clause (v) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the <sup>4</sup>[30th day of March, <sup>5</sup>[1993]]:

<sup>2</sup>[Provided also that the exemption under sub-clause (vi) or sub-clause (via) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001:]

<sup>6</sup>[Provided also that the exemption under sub-clause (iv) or sub-clause (v) <sup>2</sup>[or sub-clause (vi) or sub-clause (via)] shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the third proviso to this sub-clause, subject to the condition that such voluntary contribution is not held by the trust or institution <sup>2</sup>[or any university or other educational institution or any hospital or other medical institution], otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:]

Provided also that nothing contained in sub-clause (iv) or sub-clause (v) <sup>2</sup>[or sub-clause (vi) or sub-clause (via)] shall apply in relation to any income of the fund or trust or institution <sup>2</sup>[or any university or other educational institution or any hospital or other medical institution], being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:

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1. Subs. by Act 18 of 1992, s. 4, for sub-clause (b) (w.e.f. 1-4-1990).

2. Ins. by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

3. Ins. by Act 14 of 2001, s. 5 (w.e.f. 1-4-2001).

4. Subs. by Act 49 of 1991, s. 5, for “the 30th day of March, 1990” (w.e.f. 1-4-1990).

5. Subs. by Act 18 of 1992, s. 4, for “1992” (w.e.f. 1-4-1992).

6. Ins. by Act 49 of 1991, s. 5 (w.e.f. 1-4-1990).

Provided also that any <sup>1</sup>[notification issued by the Central Government under sub-clause (iv) or sub-clause (v), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any one time, have effect for such assessment year or years], not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

<sup>2</sup>[Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under <sup>3</sup>[sub-clause (iv) or sub-clause (v) or] sub-clause (vi) or sub-clause (via) shall be granted or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received:

Provided also that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), 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 trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 and furnish along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:]

<sup>4</sup>[Provided also that any amount of donation received by the fund or institution in terms of clause (d) of sub-section (2) of section 80G <sup>5</sup>[in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or] which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, <sup>6</sup>[2004] shall be deemed to be the income of the previous year and shall accordingly be charged to tax:]

<sup>7</sup>[Provided also that any amount credited or paid out of income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), to any trust or institution registered under section 12AA, being voluntary contribution made with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established:]

<sup>8</sup>[Provided also that for the purposes of determining the amount of application under item (a) of the third 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.]

<sup>9</sup>\* \* \* \* \*

1. Subs. by Act 29 of 2006, s. 3, for certain words, brackets, figures and letters (w.e.f. 1-4-2006).

2. Ins. by s. 3, *ibid.* (w.e.f. 1-4-2006).

3. Subs. by Act 22 of 2007, s. 6, for certain words, brackets, figures and letters (w.e.f. 1-6-2007).

4. Ins. by Act 4 of 2001, s. 4 (w.e.f. 3-2-2001).

5. Ins. by Act 20 of 2002, s. 4 (w.e.f. 3-2-2001).

6. Subs. by Act 32 of 2003, s. 6, for "2003" (w.e.f. 3-2-2001).

7. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2018).

8. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2018).

9. The proviso omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2002).

<sup>1</sup>[Provided also that where the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) does not apply its income during the year of receipt and accumulates it, any payment or credit out of such accumulation to any trust or institution registered under section 12AA or to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established:

Provided also that where the fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) is notified by the Central Government <sup>2</sup>[or is approved by the prescribed authority, as the case may be,] or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), is approved by the prescribed authority and subsequently that Government or the prescribed authority is satisfied that—

(i) such fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not—

(A) applied its income in accordance with the provisions contained in clause (a) of the third proviso; or

(B) invested or deposited its funds in accordance with the provisions contained in clause (b) of the third proviso; or

(ii) the activities of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution—

(A) are not genuine; or

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

it may, at any time after giving a reasonable opportunity of showing cause against the proposed action to the concerned fund or institution or trust or any university or other educational institution or any hospital or other medical institution, rescind the notification or, by order, withdraw the approval, as the case may be, and forward a copy of the order rescinding the notification or withdrawing the approval to such fund or institution or trust or any university or other educational institution or any hospital or other medical institution and to the Assessing Officer:]

<sup>3</sup>[Provided also that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be <sup>4</sup>[made on or before the 30th day of September of the relevant assessment year] from which the exemption is sought:]

<sup>5</sup>[Provided also that any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of the said section shall be included in the total income:]

<sup>2</sup>[Provided also that all pending applications, on which no notification has been issued under sub-clause (iv) or sub-clause (v) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day:]

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1. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

2. Ins. by Act 22 of 2007, s. 6 (w.e.f. 1-6-2007).

3. Ins. by Act 21 of 2006, s. 4 (w.e.f. 1-6-2006).

4. Subs. by Act 33 of 2009, s. 4 for “made at any time during the financial year immediately preceding the year” (w.e.f. 1-4-2009).

5. Ins. by Act 21 of 2006, s. 4 (w.e.f. 1-4-2007).

<sup>1</sup>[Provided also that the income of a trust or institution referred to in sub-clause (iv) or sub-clause (v) shall be included in its total income of the previous year if the provisions of the first proviso to clause (15) of section 2 become applicable to such trust or institution in the said previous year, whether or not any approval granted or notification issued in respect of such trust or institution has been withdrawn or rescinded:]

<sup>2</sup>[Provided also that where the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v) has been notified by the Central Government or approved by the prescribed authority, as the case may be, 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), has been approved by the prescribed authority, and the notification or the approval is in force for any previous year, then, nothing contained in any other provision of this section [other than clause (1) thereof] shall operate to exclude any income received on behalf of such fund or trust or institution or university or other educational institution or hospital or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year.]

*Explanation.*—In this clause, where any income is required to be applied or accumulated, then, for such purpose the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this clause in the same or any other previous year;]

<sup>3</sup>[(23D) <sup>4</sup>[<sup>5</sup>[<sup>6</sup>\*\*\*<sup>7</sup>[subject to the provisions of Chapter XII-E, any income of]—]

(i) a Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder;

(ii) such other Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf.]

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

(a) the expression “public sector bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) <sup>8</sup>[and a bank included in the category “other public sector banks” by the Reserve Bank of India;]

(b) the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);]

<sup>9</sup>[(c) the expression “Securities and Exchange Board of India” shall have the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

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1. Ins. by Act 23 of 2012, s. 5 (w.e.f. 1-4-2009).

2. Ins. by Act 25 of 2014, s. 5 (w.e.f. 1-4-2015).

3. Ins. by Act 4 of 1988, s. 6 (w.e.f. 1-4-1988).

4. Subs. by Act 22 of 1995, s. 4, for certain words (w.e.f. 1-7-1995).

5. Subs. by Act 27 of 1999, s. 6, for “any income of—” (w.e.f. 1-4-2000).

6. The words figures and letter “subject to the provisions of Chapter XII-E,” omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

7. Subs. by Act 32 of 2003, s. 6, for “any income of” (w.e.f. 1-4-2004).

8. Ins. by Act 33 of 2009, s. 4 (w.e.f. 1-4-2010).

9. Ins. by Act 18 of 1992, S. 4 (w.e.f. 1-4-1993).

<sup>1</sup>[(23DA) any income of a securitisation trust from the activity of securitisation.

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

(a) “securitisation” shall have the same meaning as assigned to it,—

(i) in clause (r) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

<sup>2</sup>[(ia) in clause (z) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); or]

(ii) under the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(b) “securitisation trust” shall have the meaning assigned to it in the *Explanation* below <sup>3</sup>[section 115TCA];]

<sup>4</sup>\* \* \* \* \*

<sup>5</sup>[(23EA) <sup>6</sup>[any income, by way of contributions received from recognised stock exchanges and the members thereof,] of such Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax;]

<sup>7</sup>[(23EB) any income of the <sup>8</sup>[Credit Guarantee Fund Trust for Small Industries], being a trust created by the Government of India and the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), for five previous years relevant to the assessment years beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2007;]

<sup>9</sup>[(23EC) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

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1. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

2. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2017).

3. Subs. by s. 7, *ibid.*, for “section 115TC” (w.e.f. 1-4-2017).

4. Clause (23E) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

5. Ins. by Act 10 of 2000, s. 5 (w.e.f. 1-4-2001).

6. Subs. by Act 21 of 2006, s. 4, for “any income” (w.e.f. 1-4-2007).

7. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2002).

8. Subs. by Act 32 of 2003, s. 6, for “Credit Guarantee Fund Trust for Small Scale Industries” (w.e.f. 1-4-2002).

9. Ins. by Act 22 of 2007, s. 6 (w.e.f. 1-4-2008).

*Explanation.*—For the purposes of this clause, “commodity exchange” shall mean a “registered association” as defined in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952);]

<sup>1</sup>[(23ED) any income, by way of contributions received from a depository, of such Investor Protection Fund set up in accordance with the regulations by a depository as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with a depository, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

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

(i) “depository” shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996);

(ii) “regulations” means the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Depositories Act, 1996 (22 of 1996);]

<sup>2</sup>[(23EE) any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

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

(i) “recognised clearing corporation” shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(ii) “regulations” means the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(iii) “specified income” shall mean,—

(a) the income by way of contribution received from specified persons;

(b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or

(c) the income from investment made by the Fund;

(iv) “specified person” shall mean,—

(a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund;

(b) any recognised stock exchange, being a shareholder in such recognised clearing corporation, or a contributor to the Core Settlement Guarantee Fund; and

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1. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

2. Ins. by Act 20 of 2015, s. 7 (w.e.f. 1-4-2016).



(c) any clearing member contributing to the Core Settlement Guarantee Fund;]

<sup>1</sup>[(23F) any income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking:

Provided that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority in accordance with the rules made in this behalf and satisfies the prescribed conditions :

Provided further that any approval by the prescribed authority shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval:

<sup>2</sup>[Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.]

<sup>3</sup>\* \* \* \* \*

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

(a) “venture capital fund” means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(b) “venture capital company” means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;

<sup>4</sup>[(c) “venture capital undertaking” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf;and

(d) “infrastructure facility” means a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;]]

<sup>2</sup>[(23FA) any income by way of <sup>5</sup>[dividends, other than dividends referred to in section 115-O], or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking:

Provided that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the rules made in this behalf and which satisfies the prescribed conditions:

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1. Ins. by Act 22 of 1995, s. 4 (w.e.f. 1-4-1996).

2. Ins. by Act 27 of 1999, s. 6 (w.e.f. 1-4-2000).

3. The third and fourth provisos omitted by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

4. Subs. by s. 5, *ibid.*, for clause (c) (w.e.f. 1-4-1999).

5. Subs. by Act 32 of 2003, s. 6, for “dividends” (w.e.f. 1-4-2004).

Provided further that any approval by the Central Government shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval:

<sup>1</sup>[Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 2000.]

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

(a) “venture capital fund” means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(b) “venture capital company” means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and

(c) “venture capital undertaking” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(i) business of—

(A) software;

(B) information technology;

(C) production of basic drugs in the pharmaceutical sector;

(D) bio-technology;

(E) agriculture and allied sectors; or

(F) such other sectors as may be notified by the Central Government in this behalf; or

(ii) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology;]

<sup>1</sup>[(23FB) any income of a venture capital company or venture capital fund <sup>2</sup>[from investment] in a venture capital undertaking:

<sup>3</sup>[Provided that nothing contained in this clause shall apply in respect of any income of a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the Explanation 1 to section 115UB, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2016.]

<sup>4</sup>[*Explanation.*—For the purposes of this clause,—

(a) “venture capital company” means a company which—

(A) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

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1. Ins. by Act 10 of 2000, s. 5 (w.e.f. 1-4-2001).

2. Subs. by Act 22 of 2007, s. 6, for “set up to raise funds for investment” (w.e.f. 1-4-2008).

3. Ins. by Act 20 of 2015, s. 7 (w.e.f. 1-4-2016).

4. Subs. by Act 17 of 2013, s. 5 for the *Explanation* 1 (w.e.f. 1-4-2013).

(B) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and which fulfils the following conditions, namely:—

(i) it is not listed on a recognised stock exchange;

(ii) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and

(iii) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding ten per cent. of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent. of the paid-up equity share capital of such venture capital undertaking;

(b) “venture capital fund” means a fund—

(A) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), which—

(I) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

(II) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations and which fulfils the following conditions, namely:—

(i) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(ii) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent. of the paid-up equity share capital of such venture capital undertaking; and

(iii) the units, if any, issued by it are not listed in any recognised stock exchange; or

(B) operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(c) “venture capital undertaking” means—

(i) a venture capital undertaking as defined in clause (n) of regulation 2 of the Venture Capital Funds Regulations; or

(ii) a venture capital undertaking as defined in clause (aa) of sub-regulation (1) of regulation 2 of the Alternative Investment Funds Regulations;]]

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1. The *Explanation* 2 omitted by Act 23 of 2004, s. 5 (w.e.f. 1-10-2004).

<sup>1</sup>[(23FBA) any income of an investment fund other than the income chargeable under the head “Profits and gains of business or profession”];

(23FBB) any income referred to in section 115UB, accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head “Profits and gains of business or profession”.

*Explanation.*—For the purposes of clauses (23FBA) and (23FBB), the expression “investment fund” shall have the meaning assigned to it in clause (a) of the Explanation 1 to section 115UB;]

<sup>2</sup>[(23FC) any income of a business trust <sup>3</sup>[by way of—

(a) interest received or receivable from a special purpose vehicle; or

(b) divided referred to in sub-section (7) of section 115-O].

*Explanation.*—For the purposes of this clause, the expression "special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration;

<sup>1</sup>[(23FCA) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

*Explanation.*—For the purposes of this clause, the expression "real estate asset" shall have the same meaning as assigned to it in clause (zj) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(23FD) any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to<sup>4</sup>[in sub-clause (a) of clause (23FC)] <sup>3</sup>[or clause (23FCA)];]

<sup>5</sup>\* \* \* \* \*

<sup>6</sup>[(24) any income chargeable under the heads “Income from house property” and “Income from other sources” of—

(a) a registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;

(b) an association of registered unions referred to in sub-clause (a);]

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1. Ins. by Act 20 of 2015, s. 7 (w.e.f. 1-4-2016).

2. Ins. by Act 25 of 2014, s. 5 (w.e.f. 1-4-2015).

3. Subs. by Act 27 of 2016, s. 7, for “by way of interest received or receivable from a special purpose vehicle” (w.e.f. 1-4-2017).

4. Subs. by Act 27 of 2016, s. 7, for “in clause (23FC)” (w.e.f. 1-4-2017).

5. Clause (23G) omitted by Act 21 of 2006, s. 4 (w.e.f. 1-4-2007).

6. Subs. by Act 33 of 1996, s. 4, for clause (24) (w.e.f. 1-4-1997).

(25) (i) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities;

(ii) any income received by the trustees on behalf of a recognised provident fund;

(iii) any income received by the trustees on behalf of an approved superannuation fund;

<sup>1</sup>[(iv) any income received by the trustees on behalf of an approved gratuity fund;]

<sup>2</sup>[(v) any income received—

(a) by the Board of Trustees constituted under the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;]

<sup>3</sup>[(25A) any income of the Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);]

<sup>4</sup>[(26) in the case of a member of a Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the <sup>5</sup>[States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura] or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 [as it stood immediately before the commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971)] <sup>6</sup>[or in the Ladakh region of the State of Jammu and Kashmir], any income which accrues or arises to him,—

(a) from any source in the areas <sup>7</sup>[or States aforesaid], or

(b) by way of dividend or interest on securities;]

<sup>8</sup>[(26A) any income accruing or arising to any person<sup>9</sup>\*\*\* from any source in the district of Ladakh or outside India in any previous year relevant to any assessment year commencing before the <sup>10</sup>[1st day of April, 1989], where such person is resident in the said district in that previous year:

Provided that this clause shall not apply in the case of any such person unless he was resident in that district in the previous year relevant to the assessment year commencing on the 1st day of April, 1962.

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1. Ins. by Act 16 of 1972, s. 4 (w.e.f. 1-4-1973).

2. Ins. by Act 99 of 1976, s. 40 (w.e.f. 1-8-1976).

3. Ins. by Act 22 of 1995, s. 4 (w.e.f. 1-4-1962).

4. Subs. by the North-Eastern Areas (Reorganisation) Adaptation of Laws on Union Subjects) Order, 1974, for clause 26 (w.e.f. 21-1-1972).

5. Subs. by Act 32 of 1994, s. 6, for "States of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram" (w.e.f. 1-4-1995).

6. Ins. by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

7. Subs. by Act 32 of 1994, s. 6, for "States or Union territories aforesaid" (w.e.f. 1-4-1995).

8. Ins. by Act 15 of 1965, s. 3 (w.e.f. 1-4-1962).

9. The brackets and words "(not being an individual who is in the service of Government)" omitted by Act 32 of 1971, s. 4 (w.e.f. 1-4-1962).

10. Subs. by Act 32 of 1985, s. 4, for "1st day of April, 1986" (w.e.f. 1-4-1985).

<sup>1</sup>[*Explanation 1*].—For the purposes of this clause, a person shall be deemed to be resident in the district of Ladakh if he fulfils the requirements of sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of section 6, as the case may be, subject to the modifications that—

(i) references in those sub-sections to India shall be construed as references to the said district; and

(ii) in clause (i) of sub-section (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir and having its registered office in that district in that year.]

<sup>2</sup>[*Explanation 2*.—In this clause, references to the district of Ladakh shall be construed as references to the areas comprised in the said district on the 30th day of June, 1979;]

<sup>3</sup>\* \* \* \* \*

<sup>4</sup>[(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

*Explanation*.—For the purposes of this clause, “Sikkimese” shall mean—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the “Register of Sikkim Subjects”), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual’s father or husband or paternal grand-father or brother from the same father has been recorded in that register;]

<sup>5</sup>[(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;]

<sup>6</sup>[(26B) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the <sup>7</sup>[members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them].

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1. The *Explanation* renumbered as *Explanation 1* by Act 11 of 1983, s. 5 (w.e.f. 1-4-1980).

2. Ins. by s. 5, *ibid.* (w.e.f. 1-4-1980).

3. Clause (26AA) omitted by Act 26 of 1997, s. 3 (w.e.f. 1-4-1998).

4. Ins. by Act 18 of 2008, s. 4 (w.e.f. 1-4-1990).

5. Ins. by s. 4, *ibid.* (w.e.f. 1-4-2009).

6. Ins. by Act 13 of 1980, s. 3 (w.e.f. 1-4-1972).

7. Subs. by Act 32 of 1994, s. 6, for “members of either the Scheduled Castes or the Scheduled Tribes or of both” (w.e.f. 1-4-1993).

<sup>1</sup>[*Explanation.*—For the purposes of this clause,—

(a) “Scheduled Castes” and “Scheduled Tribes” shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution;

(b) “backward classes” means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified—

(i) by the Central Government; or

(ii) by any State Government,

as the case may be, from time to time;]]

<sup>2</sup>[(26BB) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

*Explanation.*—For the purposes of this clause, “minority community” means a community notified as such by the Central Government in the Official Gazette in this behalf;]

<sup>3</sup>[(26BBB) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.

*Explanation.*—For the purposes of this clause, “ex-serviceman” means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation;]

<sup>4</sup>[(27) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (26B):

Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;]

<sup>5</sup>\* \* \* \*

<sup>6</sup>\* \* \* \*

<sup>7</sup>[(29A) any income accruing or arising to—

(a) the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

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1. Subs. by Act 32 of 1994, s. 6, for the *Explanation* (w.e.f. 1-4-1993).

2. Ins. by Act 22 of 1995, s. 4 (w.e.f. 1-4-1995).

3. Ins. by Act 32 of 2003, s. 6 (w.e.f. 1-4-2004).

4. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1989).

5. Clause (28) omitted by Act 26 of 1997, s. 3 (w.e.f. 1-4-1998).

6. Clause (29) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

7. Ins. by Act 27 of 1999, s. 6 (w.e.f. 11-5-1999).

(b) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(c) the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(d) the Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later;

(e) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later;

(f) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later;

(g) the Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 (10 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later;]

<sup>1</sup>[(h) the Coir Board established under section 4 of the Coir Industry Act, 1953 (45 of 1953);]

<sup>2</sup>[(30) in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme for replantation or replacement of tea bushes <sup>3</sup>[or for rejuvenation or consolidation of areas used for cultivation of tea] as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the <sup>4</sup>[Assessing Officer], along with his return of income for the assessment year concerned or within such further time as the <sup>4</sup>[Assessing Officer] may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

*Explanation.*—In this clause, “Tea Board” means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);]

<sup>5</sup>[(31) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify:

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1. Ins. by Act 18 of 2008, s. 4 (w.e.f. 1-4-2002).

2. Ins. by Act 42 of 1970, s. 3 (w.e.f. 1-4-1969).

3. Ins. by Act 21 of 1984, s. 3 (w.e.f. 1-4-1985).

4. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

5. Ins. by Act 26 of 1988, s. 4 (w.e.f. 1-4-1989).



Provided that the assessee furnishes to the Assessing Officer, along with his return of income for the assessment year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the previous year.

*Explanation.*—In this clause, “concerned Board” means,—

(i) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947),

(ii) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942),

(iii) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986),

(iv) in relation to any other commodity specified under this clause, any Board or other authority established under any law for the time being in force which the Central Government may, by notification in the Official Gazette, specify in this behalf;]

<sup>1</sup>[(32) in the case of an assessee referred to in sub-section (1A) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible;]

<sup>2</sup>[(33) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) and where the transfer of such asset takes place on or after the 1st day of April, 2002;]

<sup>2</sup>[(34) any income by way of dividends referred to in section 115-O;

<sup>3</sup>[Provided that nothing in this clause shall apply to any income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA;]

<sup>4</sup>\* \* \* \* \*

<sup>5</sup>[(34A) any income arising to an assessee, being a shareholder, on account of buy back of shares (not being listed on a recognised stock exchange) by the company as referred to in section 115QA;]

(35) any income by way of,—

(a) income received in respect of the units of a Mutual Fund specified under clause (23D); or

(b) income received in respect of units from the Administrator of the specified undertaking; or

(c) income received in respect of units from the specified company:

Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

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

(a) “Administrator” means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

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1. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1993).

2. Ins. by Act 32 of 2003, s. 6 (w.e.f. 1-4-2004).

3. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2017).

4. The *Explanation* omitted by Act 8 of 2011, s. 4 (w.e.f. 1-6-2011).

5. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

(b) “specified company” means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

<sup>1</sup>[(35A) any income by way of distributed income referred to in section 115TA received from a securitisation trust by any person being an investor of the said trust.

<sup>2</sup>[Provided that nothing contained in this clause shall apply to any income by way of distributed income referred to in the said section, received on or after the 1st day of June, 2016.]

*Explanation.*—For the purposes of this clause, the expressions “investor” and “securitisation trust” shall have the meanings respectively assigned to them in the Explanation below<sup>3</sup>[section 115TCA];

(36) any income arising from the transfer of a long-term capital asset, being an eligible equity share in a company purchased on or after the 1st day of March, 2003 and before the 1st day of March, 2004 and held for a period of twelve months or more.

*Explanation.*—For the purposes of this clause, “eligible equity share” means,—

(i) any equity share in a company being a constituent of BSE-500 Index of the Stock Exchange, Mumbai as on the 1st day of March, 2003 and the transactions of purchase and sale of such equity share are entered into on a recognised stock exchange in India;

(ii) any equity share in a company allotted through a public issue on or after the 1st day of March, 2003 and listed in a recognised stock exchange in India before the 1st day of March, 2004 and the transaction of sale of such share is entered into on a recognised stock exchange in India;]

<sup>4</sup>[(37) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head “Capital gains” arising from the transfer of agricultural land, where—

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

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

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

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

*Explanation.*—For the purposes of this clause, the expression “compensation or consideration” includes the compensation or consideration enhanced or further enhanced by any court, Tribunal or other authority;

<sup>5</sup>[(37A) any income chargeable under the head “Capital gains” in respect of transfer of a specified capital asset arising to an assessee, being an individual or a Hindu undivided family, who was the owner of such specified capital asset as on the 2nd day of June, 2014 and transfers that specified capital asset under the Land Pooling Scheme (herein referred to as “the scheme”) covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 (Andhra Pradesh 11 of 2014) and the rules, regulations and Schemes made under the said Act.

*Explanation.*—For the purposes of this clause, “specified capital asset” means,—

(a) the land or building or both owned by the assessee as on the 2nd day of June, 2014 and which has been transferred under the scheme; or

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1. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

2. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2017).

3. Subs. by s. 7, *ibid.*, for “section 115TC” (w.e.f. 1-4-2017).

4. Ins. by Act 23 of 2004, s. 5 (w.e.f. 1-4-2005).

5. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2015).

(b) the land pooling ownership certificate issued under the scheme to the assessee in respect of land or building or both referred to in clause (a); or

(c) the reconstituted plot or land, as the case may be, received by the assessee *in lieu* of land or building or both referred to in clause (a) in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from the end of the financial year in which the possession of such plot or land was handed over to him;]

(38) any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund <sup>1</sup>[or a unit of a business trust] where—

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

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

<sup>2</sup>[Provided that the income by way of long-term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB:]

<sup>3</sup>\* \* \* \* \*

<sup>4</sup>[Provided also that nothing contained in sub-clause (b) shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.]

<sup>5</sup>[Provided also that nothing contained in this clause shall apply to any income arising from the transfer of a long-term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).]

<sup>6</sup>[Provided also that nothing contained in this clause shall apply to any income arising from the transfer of long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, made on or after the 1st day of April, 2018.]

<sup>7</sup>[*Explanation.*—For the purposes of this clause,—

(a) “equity oriented fund” means a fund—

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

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

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

(b) “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

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1. Ins. by Act 25 of 2014, s. 5 (w.e.f. 1-4-2015).

2. Ins. by Act 21 of 2006, s. 4 (w.e.f. 1-4-2007).

3. The second proviso omitted by Act 20 of 2015, s. 7 (w.e.f. 1-4-2016).

4. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2016).

5. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2018).

6. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2018).

7. Subs. by Act 28 of 2016, s. 7, for the *Explanation* (w.e.f. 1-4-2016).

(c) “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section (5) of section 43;]

<sup>1</sup>[(39) any specified income, arising from any international sporting event held in India, to the person or persons notified by the Central Government in the Official Gazette, if such international sporting event—

(a) is approved by the international body regulating the international sport relating to such event;

(b) has participation by more than two countries;

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

*Explanation.*—For the purposes of this clause, “the specified income” means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify in this behalf;

(40) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation:

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;

(41) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power where such transfer is effected on or before the 31st day of March, 2006, to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;]

<sup>2</sup>[(42) any specified income arising to a body or authority which—

(a) has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government;

(b) is established or constituted or appointed not for the purposes of profit;

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

*Explanation.*—For the purposes of this clause, “specified income” means the income, of the nature and to the extent, arising to the body or authority referred to in this clause, which the Central Government may notify in this behalf;]

<sup>3</sup>[(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47;]

<sup>4</sup>[(44) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882 (2 of 1882);]

<sup>5</sup>[(45) any allowance or perquisite, as may be notified by the Central Government in the Official Gazette in this behalf, paid to the Chairman or a retired Chairman or any other member or retired member of the Union Public Service Commission;]

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1. Ins. by Act 55 of 2005, s. 2 (w.e.f. 1-4-2006).

2. Ins. by Act 21 of 2006, s. 4 (w.e.f. 1-4-2007).

3. Ins. by Act 43 of 2008, s. 4 (w.e.f. 1-4-2008).

4. Ins. by Act 33 of 2009, s. 4 (w.e.f. 1-4-2009).

5. Ins. by Act 8 of 2011, s. 4 (w.e.f. 1-4-2008).

<sup>1</sup>[(46) any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) <sup>2</sup>[, or a class thereof] which—

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

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

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

*Explanation.*—For the purposes of this clause, “specified income” means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission (by whatever name called) <sup>2</sup>[, or a class thereof] referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf;

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

<sup>3</sup>[(48) any income received in India in Indian currency by a foreign company on account of <sup>4</sup>[sale of crude oil, any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person] in India:

Provided that—

(i) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government;

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf; and

(iii) the foreign company is not engaged in any activity, other than receipt of such income, in India;]

<sup>5</sup>[(48A) any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India:

Provided that—

(i) the storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf;]

<sup>6</sup>[(48B) any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in clause (48A) <sup>7</sup>[or on termination of the said agreement or the arrangement, in accordance with the terms mentioned therein, as the case may be,] subject to such conditions as may be notified by the Central Government in this behalf;]

<sup>8</sup>[(49) any income of the National Financial Holdings Company Limited, being a company set up by the Central Government, of any previous year relevant to any assessment year commencing on or before the 1st day of April, 2014;]

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1. Ins. by Act 8 of 2011, s. 4 (w.e.f. 1-6-2011).

2. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2018).

3. Ins. by Act 23 of 2012, s. 5 (w.e.f. 1-4-2012).

4. Subs. by Act 17 of 2013, s. 5, for “sale of crude oil to any person” (w.e.f. 1-4-2014).

5. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2016).

6. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2018).

7. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2019).

8. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

<sup>1</sup>[(50) any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force and chargeable to equalisation levy under that Chapter.

*Explanation.*—For the purposes of this clause, “specified service” shall have the meaning assigned to it in clause (i) of section 164 of Chapter VIII of the Finance Act, 2016.]

<sup>2</sup>[10A. Special provision in respect of newly established undertakings in free trade zone, etc.—

(1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to deduction referred to in this sub-section only for the unexpired period of the aforesaid ten consecutive assessment years:

Provided further that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the period of ten consecutive assessment years referred to in this sub-section shall be reckoned from the assessment year relevant to the previous year in which the <sup>3</sup>[undertaking began to manufacture or produce such articles or things or computer software] in such free trade zone or export processing zone:

<sup>4</sup>\* \* \* \*

<sup>5</sup>[Provided also that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent. of the profits and gains derived by an undertaking from the export of such articles or things or computer software:]

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the <sup>6</sup>[1st day of April, 2012] and subsequent years.

<sup>7</sup>[(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,—

(i) hundred per cent. of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter, fifty per cent. of such profits and gains for further two consecutive assessment years, and thereafter;

(ii) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the “Special Economic Zone Re-investment Allowance Reserve Account”) to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (1B):

1. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-6-2016).

2. Subs. by Act 10 of 2000, s. 6, for section 10A (w.e.f. 1-4-2001).

3. Subs. by Act 14 of 2001, s. 6, for “undertaking was first set up” (w.e.f. 1-4-2001).

4. The third proviso omitted by s. 6, *ibid.* (w.e.f. 1-4-2002).

5. Ins. by Act 20 of 2002, s. 5 (w.e.f. 1-4-2003).

6. Subs. by Act 33 of 2009, s. 5, for “1st day of April, 2011” (w.e.f. 1-4-2009).

7. Subs. by Act 32 of 2003, s. 7 (w.e.f. 1-4-2004).

<sup>1</sup>[Provided that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.]

(1B) The deduction under clause (ii) of sub-section (1A) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised—

(i) for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created; and

(ii) until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be prescribed in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(1C) Where any amount credited to the Special Economic Zone Re-investment Allowance Reserve Account under clause (ii) of sub-section (1A),—

(a) has been utilised for any purpose other than those referred to in sub-section (1B), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (1B), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (1B),

and shall be charged to tax accordingly.]

(2) This section applies to any undertaking which fulfils all the following conditions, namely :—

(i) it has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year—

(a) commencing on or after the 1st day of April, 1981, in any free trade zone; or

(b) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park, or, as the case may be, software technology park;

(c) commencing on or after the 1st day of April, 2001 in any special economic zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertakings as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

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1. Ins. by Act 18 of 2005, s. 5 (w.e.f. 1-4-2006).

*Explanation.*—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

*Explanation 1.*—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

*Explanation 2.*—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

<sup>1</sup>[(4) For the purposes of <sup>2</sup>[sub-sections (I) and (IA)], the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.]

(5) The deduction under <sup>3</sup>[this section] shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (I) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years <sup>4</sup>[ending before the 1st day of April, 2001], in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (I) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (I) of section 72 or sub-section (I) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years <sup>4</sup>[ending before the 1st day of April, 2001];

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

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1. Ins. by Act 14 of 2001, s. 6 (w.e.f. 1-4-2001).

2. Subs. by Act 32 of 2003, s. 7, for “sub-section (I)” (w.e.f. 1-4-2003).

3. Subs. by s. 7, *ibid.*, for “sub-section (I)” (w.e.f. 1-4-2003).

4. Ins. by s. 7, *ibid.* (w.e.f. 1-4-2001).



(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

<sup>1</sup>[(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.]

<sup>2</sup>[(7B) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (zc) of section 2 of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

<sup>3</sup> *	*	*	*	*
<sup>4</sup> *	*	*	*	*

*Explanation 2.*—For the purposes of this section,—

(i) “computer software” means—

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature, as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

(ii) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of <sup>5</sup>[the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(iii) “electronic hardware technology park” means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(iv) “export turnover” means the consideration <sup>6</sup>[in respect of export by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

1. Ins. by Act 32 of 2003, s. 7 (w.e.f. 1-4-2004).

2. Ins. by Act 28 of 2005, s. 37 and the Second Schedule (w.e.f. 10-2-2006).

3. Sub-sections (9) and (9A) omitted by Act 32 of 2003, s. 7 (w.e.f. 1-4-2003).

4. *Explanation 1* omitted by s. 7, *ibid.* (w.e.f. 1-4-2004).

5. Subs. by Act 17 of 2013, s. 4, for “Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

6. Subs. by Act 14 of 2001, s. 6, for “in respect of export” (w.e.f. 1-4-2001).

(v) “free trade zone” means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(vi) “relevant assessment year” means any assessment year falling within a period of ten consecutive assessment years referred to in this section;

(vii) “software technology park” means any park set up in accordance with the Software Technology Park Scheme notified by the Government of India in the Ministry of Commerce and Industry;

(viii) “special economic zone” means a zone which the Central Government may, by notification in the Official Gazette, specify as a special economic zone for the purposes of this section.]

<sup>1</sup>[*Explanation 3.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

<sup>2</sup>[*Explanation 4.*—For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.]

**10AA.<sup>3</sup>[Special provisions in respect of newly established Units in Special Economic Zones.—(1)** Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (j) of section 2 of the Special Economic Zones Act, 2005, from his Unit, who begins to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after the 1st day of <sup>4</sup>[April, 2006, a deduction of]—

(i) hundred per cent. of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and fifty per cent. of such profits and gains for further five assessment years and thereafter;

(ii) for the next five consecutive assessment years, so much of the amount not exceeding fifty per cent. of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the “Special Economic Zone Re-investment Reserve Account”) to be created and utilized for the purposes of the business of the assessee in the manner laid down in sub-section (2).

<sup>5</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee.]

(2) The deduction under clause (ii) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised—

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1. Ins. by Act 14 of 2001, s. 6 (w.e.f. 1-4-2001).

2. Ins. by Act 32 of 2003, s. 7 (w.e.f. 1-4-2004).

3. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).

4. Subs. by Act 28 of 2016, s. 8, for the words, figures and letters “April, 2006, a deduction of” (w.e.f. 1-4-2017).

5. Ins. Act 7 of 2017, s. 7 (w.e.f. 1-4-2018).

(i) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and

(ii) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under clause (b) of sub-section (1B) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(3) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (ii) of sub-section (1),—

(a) has been utilised for any purpose other than those referred to in sub-section (2), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (2), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (2),

and shall be charged to tax accordingly:

Provided that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (ii) of sub-section (1).

*Explanation.*—For the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section:

Provided further that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone:

Provided also that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (ii) of sub-section (1) with effect from the 1st day of April, 2006.

<sup>1</sup>[(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

(i) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanations* 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.]

(5) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged Unit, being the company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger had not taken place.

(6) Loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.

(7) For the purposes of sub-section (1), the profits derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on <sup>2</sup>[by the undertaking]:

<sup>3</sup>[Provided that the provisions of this sub-section [as amended by section 6 of the Finance (No. 2) Act, 2009 (33 of 2009)] shall have effect for the assessment year beginning on the 1st day of April, 2006 and subsequent assessment years.]

(8) The provisions of sub-sections (5) and (6) of section 10A shall apply to the articles or things or services referred to in sub-section (1) as if—

(a) for the figures, letters and word “1st April, 2001”, the figures, letters and word “1st April, 2006” had been substituted;

(b) for the word “undertaking”, the words “undertaking, being the Unit” had been substituted.

(9) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

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1. Subs. by Act 22 of 2007, s. 7, for certain words (w.e.f. 10-2-2006).

2. Subs. by Act 33 of 2009, s. 6, for “by the assessee” (w.e.f. 1-4-2010).

3. Ins. by Act 14 of 2010, s. 6 (w.e.f. 1-4-2010).

<sup>1</sup>[(10) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in clause (c) of sub-section (8) of section 35AD, for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.]

*Explanation 1.*—For the purposes of this section,—

(i) “export turnover” means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

(ii) “export in relation to the Special Economic Zones” means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

(iii) “manufacture” shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zones Act, 2005;

(iv) “relevant assessment year” means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section;

(v) “Special Economic Zone” and “Unit” shall have the same meanings as assigned to them under clauses (za) and (zc) of section 2 of the Special Economic Zones Act, 2005.

*Explanation 2.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

<sup>2</sup>**[10B. Special provisions in respect of newly established hundred per cent. export-oriented undertakings.**— (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent. export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years:

<sup>3</sup>[Provided<sup>4</sup>[further] that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent. of the profits and gains derived by an undertaking from the export of such articles or things or computer software:]

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the <sup>5</sup>[1st day of April, 2012] and subsequent years:

<sup>6</sup>[Provided also that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.]

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1. Ins. by Act 25 of 2014, s. 6, (w.e.f. 1-4-2015).

2. Subs. by Act 10 of 2000, s. 7, for section 10B (w.e.f. 1-4-2001).

3. Ins. by Act 20 of 2002, s. 6 (w.e.f. 1-4-2003).

4. Subs. by Act 21 of 2006, s. 5, for “also” (w.e.f. 1-4-2006).

5. Subs. by Act 33 of 2009 s. 7, for “1st day of April 2011” (w.e.f. 1-4-2009).

6. Ins. by Act 21 of 2006, s. 5 (w.e.f. 1-4-2006).

(2) This section applies to any undertaking which fulfils all the following conditions, namely:—

(i) it manufactures or produces any articles or things or computer software;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

*Explanation 1.*—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

*Explanation 2.*—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

<sup>1</sup>[(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.]

(5) The deduction under sub-section (1) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 35 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years <sup>2</sup>[ending before the 1st day of April, 2001], in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, , sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

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1. Subs. by Act 14 of 2001, s. 7, for sub-section (4) (w.e.f. 1-4-2001).

2. Ins. by Act 32 of 2003, s. 8, (w.r.e.f. 1-4-2001).

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years <sup>1</sup>[ending before the 1st day of April, 2001;]

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

<sup>2</sup>[(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or the demerger had not taken place.]

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment year.

3*	*	*	*	*
4*	*	*	*	*
5*	*	*	*	*

*Explanation 2.*—For the purposes of this section,—

(i) “computer software” means—

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature as may be notified by the Board,

which is transmitted or exported from India to any place outside India by any means;

1. Ins. by Act 32 of 2003, s. 8 (w.r.e.f. 1-4-2001).

2. Ins. by s. 8, *ibid.* (w.e.f. 1-4-2004).

3. Clause (9) omitted by, s. 8 (w.e.f. 1-4-2004).

4. Clause (9A) omitted by s. 8 *ibid.* (w.e.f. 1-4-2004).

5. *Explanation 1* omitted by s. 8 *ibid.* (w.e.f. 1-4-2004).

(ii) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of <sup>1</sup>[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder or any other corresponding law for the time being in force;

(iii) “export turnover” means the consideration <sup>2</sup>[in respect of export by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(iv) “hundred per cent. export-oriented undertaking” means an undertaking which has been approved as a hundred per cent. export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

(v) “relevant assessment years” means any assessment years falling within a period of ten consecutive assessment years, referred to in this section.]

<sup>3</sup>[*Explanation 3.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

<sup>4</sup>[*Explanation 4.*—For the purposes of this section, “manufacture or produce” shall include the cutting and polishing of precious and semi-precious stones.]

<sup>5</sup>[**10BA. Special provisions in respect of export of certain articles or things.**— (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section:

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils the following conditions, namely:—

(a) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(b) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(c) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (ii) of sub-section (2) of that section;

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1. Subs. by Act 17 of 2013, s. 4, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

2. Subs. by Act 14 of 2001, s. 7, for the words “in the respect of export” (w.e.f. 1-4-2001).

3. Ins. by s. 7, *ibid.* (w.e.f. 1-4-2001).

4. Ins. by Act 32 of 2003, s. 8 (w.e.f. 1-4-2004).

5. Ins. by Act 54 of 2003, s. 3 (w.e.f. 1-4-2004).



(d) ninety per cent. or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(e) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

*Explanation.*—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(4) For the purposes of sub-section (1), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(5) The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

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

(a) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(b) “eligible articles or things” means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;

(c) “export turnover” means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(d) “export out of India” shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962 (52 of 1962).]

<sup>1</sup>[**10BB. Meaning of computer programmes in certain cases.**—The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000 (10 of 2000), shall be construed as if for the words “computer programmes”, the words “computer programmes or processing or management of electronic data” had been substituted in that section.]

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1. Ins. by Act 14 of 2001, s. 8 (w.e.f. 1-4-1994).

<sup>1</sup>[10C. **Special provision in respect of certain industrial undertakings in North-Eastern Region.**—(1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region (hereafter in this section referred to as the industrial undertaking) shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it is not formed by the splitting up, or the reconstruction of, a business already in existence:

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

*Explanation.*—The provisions of *Explanation 1* and *Explanation 2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year,—

(i) section 32, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80IB, as the case may be.

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1. Ins. by Act 27 of 1999, s. 7 (w.e.f. 1-4-1999).

(6) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years:

<sup>1</sup>[Provided that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.]

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

(i) “Integrated Infrastructure Development Centre” means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section;

(ii) “Industrial Growth Centre” means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;

(iii) “North-Eastern Region” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(iv) “relevant assessment years” means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.]

<sup>2</sup>**[11. Income from property held for charitable or religious purposes.**—(1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

<sup>3</sup>[(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of <sup>4</sup>[fifteen per cent.] of the income from such property;

(b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of <sup>4</sup>[fifteen per cent.] of the income from such property;

(c) income <sup>5</sup>[derived from property held under trust]—

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

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1. Ins. by Act 32 of 2003, s. 9 (w.e.f. 1-4-2004).

2. Section 11 restored by Act 3 of 1989, s. 95 with amendments (w.e.f. 1-4-1989). Earlier omitted by Act 4 of 1988, s. 7 (w.e.f. 1-4-1989).

3. Subs. by Act 41 of 1975, s. 4, for clauses (a) and (b) (w.e.f. 1-4-1976).

4. Subs. by Act 20 of 2002, s. 7, for “twenty-five per cent.” (w.e.f. 1-4-2003).

5. Ins. by Act 16 of 1972, s. 5 (w.e.f. 1-4-1973).

<sup>1</sup>[(d) 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.

<sup>2</sup>[*Explanation* <sup>3</sup>[1].—For the purposes of clauses (a) and (b),—

(1) in computing the <sup>4</sup>[fifteen per cent.] of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(2) if, in the previous year, the income applied to charitable or religious purposes in India falls short of <sup>5</sup>[eighty-five per cent.] of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(i) for the reason that the whole or any part of the income has not been received during that year, or

(ii) for any other reason,

then—

(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income <sup>6</sup>[(such option to be exercised before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed)] be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.]

<sup>7</sup>[*Explanation* 2.—Any amount credited or paid, out of income referred to in clause (a) or clause (b) read with *Explanation* 1, to any other trust or institution registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.]

<sup>8</sup>[*Explanation* 3.—For the purposes of determining the amount of application under clause (a) or clause (b), 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.”]

<sup>9</sup>[(1A) For the purposes of sub-section (1),—

(a) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

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1. Ins. by Act 3 of 1989, s. 5 (w.e.f. 1-4-1989).

2. Subs. by Act 41 of 1975, s. 4, for *Explanation* (w.e.f. 1-4-1976).

3. The *Explanation* renumbered as *Explanation* 1 thereof by Act 7 of 2017, s. 8 (w.e.f. 1-4-2018).

4. Subs. by Act 20 of 2002, s. 7 for “twenty-five per cent.” (w.e.f. 1-4-2003).

5. Subs. by s. 7, *ibid.*, for “seventy-five per cent.” (w.e.f. 1-4-2003).

6. Subs. by Act 20 of 2015, s. 8, for “(such option to be exercised in writing before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income)” (w.e.f. 1-4-2016).

7. Ins. by Act 7 of 2017, s. 8 (w.e.f. 1-4-2018).

8. Ins. by Act 13 of 2018, s. 6 (w.e.f. 1-4-2019).

9. Ins. by Act 32 of 1971, s. 5 (w.r.e.f. 1-4-1962).

(ii) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;

(b) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(ii) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

*Explanation.*—In this sub-section,—

(i) “appropriate fraction” means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(ii) “cost of the transferred asset” means the aggregate of the cost of acquisition (as ascertained for the purposes of section 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (b) of clause (I) of section 55;

(iii) “net consideration” means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.]

<sup>1</sup>[(1B) Where any income in respect of which an option is exercised under clause (2) of the Explanation to sub-section (I) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (a) or, as the case may be, sub-clause (b), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(a) in the case referred to in sub-clause (i) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(b) in the case referred to in sub-clause (ii) of the said clause, of the previous year immediately following the previous year in which the income was derived.

<sup>2</sup>[(2) <sup>3</sup>[Where <sup>4</sup>[eighty-five per cent.] of the income referred to in clause (a) or clause (b) of sub-section (I) read with the Explanation to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, 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, provided the following conditions are complied with, namely:—]

<sup>5</sup>[(a) such person furnishes a statement in the prescribed form and in the prescribed<sup>3</sup> manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and

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1. Ins. by Act 41 of 1975, s. 4 (w.e.f. 1-4-1976).

2. Subs. by Act 19 of 1970, s. 5, for sub-section (2) (w.e.f. 1-4-1971).

3. Subs. by Act 41 of 1975, s. 4, for certain words (w.e.f. 1-4-1976).

4. Subs. by Act 20 of 2002, s. 7, for “seventy-five per cent.” (w.e.f. 1-4-2003).

5. Subs. by Act 20 of 2015, s. 8, for clauses (a), (b) and the first and second provisos (w.e.f. 1-4-2016).

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);

(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:

Provided that in computing the period of five years referred to in clause (a), 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.]]

<sup>1</sup>[*Explanation.*—Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.]

<sup>2</sup>[(3) Any income referred to in sub-section (2) which—

(a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

<sup>3</sup>[(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), 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 that sub-section or in the year immediately following the expiry thereof,

<sup>1</sup>[(d) is credited or paid to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10,]

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or credited or paid or, as the case may be, of the previous year immediately following the expiry of the period aforesaid.

<sup>4</sup>[(3A) Notwithstanding anything contained in sub-section (3), 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 sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the <sup>5</sup>[Assessing Officer] may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the <sup>5</sup>[Assessing Officer] under clause (a) of sub-section (2):

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1. Ins. by Act 20 of 2002, s. 7 (w.e.f. 1-4-2003).

2. Subs. by Act 19 of 1970, s. 5, for sub-section (3) (w.e.f. 1-4-1971).

3. Subs. by Act 11 of 1983, s. 39, for clause (b) (w.e.f. 1-4-1983).

4. Ins. by Act 41 of 1975, s. 4 (w.e.f. 1-4-1976).

5. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

<sup>1</sup>[Provided that the <sup>2</sup>[Assessing Officer] shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of sub-section (3) of section 11:]

<sup>3</sup>[Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the <sup>2</sup>[Assessing Officer] may allow application of such income for the purposes referred to in clause (d) of sub-section (3) in the year in which such trust or institution was dissolved.]

(4) For the purposes of this section “property held under trust” includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the <sup>2</sup>[Assessing Officer] shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes <sup>4</sup>\*\*\*.

<sup>5</sup>[(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.]

<sup>6</sup>[(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section (2) shall be the following, namely:—

(i) investment in savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(ii) deposit in any account with the Post Office Savings Bank;

(iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

*Explanation.*—In this clause, “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(v) investment in any security for money created and issued by the Central Government or a State Government;

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1. Ins. by Act 20 of 2002, s. 7 (w.e.f. 1-4-2003).

2. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

3. Ins. by Act 32 of 2003, s. 10 (w.e.f. 1-4-2003).

4. The words brackets and figures “and accordingly chargeable to tax within the meaning of sub-section (3)” omitted by Act 19 of 1970, s. 5 (w.e.f. 1-4-1971).

5. Subs. by Act 49 of 1991, s. 6, for sub-section (4A) (w.e.f. 1-4-1992).

6. Ins. by Act 11 of 1983, s. 6 (w.e.f. 1-4-1984).

(vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(vii) investment or deposit in any <sup>1</sup>[public sector company]:

<sup>2</sup>[Provided that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(A) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector company ceases to be a public sector company;

(B) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;]

(viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and <sup>3</sup>[which is eligible for deduction under clause (viii) of sub-section (1) of section 36];

(ix) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and <sup>3</sup>[which is eligible for deduction under clause (viii) of sub-section (1) of section 36];

<sup>4</sup>[(ixa) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

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

(a) “long-term finance” means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(b) “public company” shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(c) “urban infrastructure” means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;]

(x) investment in immovable property.

*Explanation.*—“Immovable property” does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;]

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1. Subs. by Act 3 of 1989, s. 5, for “Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)” (w.e.f. 1-4-1989).

2. Ins. by Act 10 of 2000, s. 8 (w.e.f. 1-4-2001).

3. Subs. by s. 8, *ibid.*, for “which is approved by the Central Government of the purposes of clause (viii) of sub-section (10) of section 36” (w.e.f. 1-4-2001).

4. Ins. by s. 8, *ibid.* (w.e.f. 1-4-2001).



<sup>1</sup>[(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);]

<sup>2</sup>[(xii) any other form or mode of investment or deposit as may be prescribed.]

<sup>3</sup>[(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) of section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (1) and clause (23C) thereof] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year.]

<sup>4</sup>**[12. Income of trusts or institutions from contributions.]**—<sup>5</sup>[(1)] Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.]

<sup>6</sup>[(2) The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (1) of section 11.

*Explanation.*—For the purposes of this sub-section, the expression “value” shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13.]

<sup>7</sup>[(3) Notwithstanding anything contained in section 11, any amount of donation received by the trust or institution in terms of clause (d) of sub-section (2) of section 80G <sup>8</sup>[in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or] which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, <sup>9</sup>[2004] shall be deemed to be the income of the previous year and shall accordingly be charged to tax.]

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1. Ins. by Act 21 of 1984, s. 4 (w.e.f. 1-4-1985).

2. Ins. by Act 3 of 1989, s. 5 (w.e.f. 1-4-1989).

3. Ins. by Act 25 of 2014, s. 7 (w.e.f. 1-4-2015).

4. Sections 12 and 12A restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier section 12 was omitted by Act 4 of 1988, s. 7 (w.e.f. 1-4-1989).

5. Section 12 renumbered as sub-section (1) thereof by Act 10 of 2000, s. 9 (w.e.f. 1-4-2001).

6. Ins. by s. 9, *ibid.* (w.e.f. 1-4-2001).

7. Ins. by Act 4 of 2001, s. 5 (w.e.f. 3-2-2001).

8. Ins. by Act 20 of 2002, s. 8 (w.e.f. 3-2-2001).

9. Subs. by Act 32 of 2003, s. 11, for the figures “2003” (w.e.f. 3-2-2001).

**12A.** <sup>1</sup>[Conditions for applicability of sections 11 and 12.]—<sup>2</sup>[(I)] The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the <sup>3\*\*\*</sup> <sup>4</sup>[Principal Commissioner or Commissioner] before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, <sup>5</sup>[whichever is later and such trust or institution is registered under section 12AA]:

<sup>6</sup>[Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of section 11 and 12 shall apply in relation to the income of such trust or institution,—

(i) from the date of the creation of the trust or the establishment of the institution if the <sup>3\*\*\*</sup> <sup>4</sup>[Principal Commissioner or Commissioner] is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period aforesaid for sufficient reasons;

(ii) from the 1st day of the financial year in which the application is made, if the <sup>3\*\*\*</sup> <sup>4</sup>[Principal Commissioner or Commissioner] is not so satisfied:]

<sup>7</sup>[Provided further that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;]

<sup>7</sup>[(aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the <sup>4</sup>[Principal Commissioner or Commissioner] and such trust or institution is registered under section 12AA;]

<sup>8</sup>[(ab) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;]

(b) where the total income of the trust or institution as computed under this Act without giving effect to the <sup>9</sup>[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 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

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1. Subs. by Act 22 of 2007, s. 8, for “Conditions as to registration of trusts, etc.” (w.e.f. 1-6-2007).

2. Section 12A renumbered as sub-section (I) thereof by s. 8 *ibid.* (w.e.f. 1-6-2007).

3. The words “chief commissioner or” omitted by Act 27 of 1999, s. 8 (w.e.f. 1-6-1999).

4. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.r.e.f. 1-6-2013).

5. Subs. by Act 33 of 1996, s. 5, for “whichever is later” (w.e.f. 1-4-1997).

6. The proviso substituted by Act 49 of 1991, s. 7, (w.e.f. 1-10-1991).

7. Ins. by Act 22 of 2007, s. 8 (w.e.f. 1-6-2007).

8. Ins. by Act 7 of 2017, s. 9 (w.e.f. 1-4-2018).

9. Subs. by Act 29 of 2006, s. 4, for certain words and figures (w.e.f. 1-4-2006).

<sup>1</sup>[(*ba*) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section;]

<sup>2</sup>\* \* \* \* \*

<sup>3</sup>[(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:]

<sup>4</sup>[Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA.]

<sup>5</sup>[**12AA. Procedure for registration.**— (*I*) The <sup>6\*\*\*</sup> <sup>7</sup>[Principal Commissioner or Commissioner], on receipt of an application for registration of a trust or institution made under clause (*a*) <sup>8</sup>[or clause (*aa*) <sup>9</sup>[or clause (*ab*)] of sub-section (*I*)] of section 12A, shall—

(*a*) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(*b*) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(*i*) shall pass an order in writing registering the trust or institution;

(*ii*) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant:

Provided that no order under sub-clause (*ii*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

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1. Ins. by Act 7 of 2017, s. 9 (w.e.f. 1-4-2018).

2. Clause (*c*) omitted by Act 20 of 2002, s. 9 (w.e.f. 1-4-2002).

3. Ins. by Act 22 of 2007, s. 8 (w.e.f. 1-6-2007).

4. Ins. by Act 25 of 2014, s. 8 (w.e.f. 1-10-2014).

5. Ins. by Act 33 of 1996, s. 6 (w.e.f. 1-4-1997).

6. The words “chief commissioner or” omitted by Act 27 of 1999, s. 8 (w.e.f. 1-6-1999).

7. Subs. by Act 25 of 2014, s. 4, for “Commissioner” (w.e.f. 1-6-2013)

8. Ins. by Act 22 of 2007, s. 9 (w.e.f. 1-6-2007).

9. Ins. by Act 7 of 2017, s. 10 (w.e.f. 1-4-2018).

<sup>1</sup>[(1A) All applications, pending before the <sup>2</sup>[Principal Chief Commissioner or Chief Commissioner] on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the <sup>3</sup>[Principal Commissioner or Commissioner] and the <sup>3</sup>[Principal Commissioner or Commissioner] may proceed with such applications under that sub-section from the stage at which they were on that day.]

(2) Every order granting or refusing registration under clause (b) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) <sup>4</sup>[or clause (aa) <sup>5</sup>[or clause (ab)] of sub-section (1)] of section 12A.]

<sup>6</sup>[(3) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) <sup>7</sup>[or has obtained registration at any time under section 12A. [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)]] and subsequently the <sup>3</sup>[Principal Commissioner or Commissioner] is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

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

<sup>8</sup>[(4) Without prejudice to the provisions of sub-section (3), where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution:

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner.]

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1. Ins. by Act 27 of 1999, s. 9 (w.e.f. 1-6-1999).

2. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013)

3. Subs. by s. 4, *ibid.*, for "Commissioner" (w.r.e.f. 1-6-2013)

4. Ins. by Act 22 of 2007, s. 9 (w.e.f. 1-6-2007).

5. Ins. by Act 7 of 2017, s. 10 (w.e.f. 1-4-2018).

6. Ins. by Act 23 of 2004, s. 6 (w.e.f. 1-10-2004).

7. Ins. by Act 14 of 2010, s. 7 (w.e.f. 1-6-2010).

8. Ins. by Act 25 of 2014, s. 9 (w.e.f. 1-10-2014).

<sup>1</sup>[**13. Section 11 not to apply in certain cases.**—(1) <sup>2</sup>[Nothing contained in section 11 or section 12] shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

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

(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit of any particular religious community or caste;

<sup>3</sup>\* \* \* \*

(c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit of any person referred to in sub-section (3):

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution:

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) insofar as such use or application relates to any period before the 1st day of June, 1970;

<sup>4</sup>[(d) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

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1. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier section 13 omitted by Act 4 of 1988, s. 7 (w.e.f. 1-4-1989).

2. Subs. by Act 16 of 1972, s. 7, for "Nothing contained in section 11" (w.e.f. 1-4-1973).

3. Clause (bb) omitted by Act 11 of 1983, s. 7 (w.e.f. 1-4-1984).

4. Subs. by s. 7, *ibid.*, for clause (d) (w.e.f. 1-4-1983).

<sup>1</sup>[(iii) any shares in a company, other than—

(A) shares in a public sector company;

(B) shares prescribed as a form or mode of investment under clause (xii) of sub-section (5) of section 11,

are held by the trust or institution after the 30th day of November, 1983:]

Provided that nothing in this clause shall apply in relation to—

(i) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973 <sup>2\*\*\*\*</sup>;

<sup>3</sup>[(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;]

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

<sup>4</sup>[(iia) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, <sup>5</sup>[1993], whichever is later;]

(iii) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

*Explanation.*—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (iii) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.]

<sup>6</sup>[*Explanation.*—For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), insofar as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.]

(2) Without prejudice to the generality of the <sup>7</sup>[provisions of clause (c) and clause (d)] of sub-section (1), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(a) if any part of the income or property of the trust or institution is, or continues to be, lent to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;

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1. Subs. by Act 22 of 2007, s. 10, for sub-clause (iii) (w.e.f. 1-4-1999).

2. The words “and such assets were not purchased by the trust or institution or acquired by it by conversion or in exchange for, any other asset” omitted by Act 18 of 1992, s. 5 (w.e.f. 1-4-1983).

3. Ins. by s. 5, *ibid.* (w.e.f. 1-4-1983).

4. Ins. by Act 49 of 1991, s. 8 (w.e.f. 1-4-1983).

5. Subs. by Act 18 of 1992, s. 5, for “1992” (w.e.f. 1-4-1992).

6. Ins. by Act 16 of 1972, s. 7 (w.e.f. 1-4-1973).

7. Subs. by Act 11 of 1983, s. 7, for “provisions of clause (c)” (w.e.f. 1-4-1983).

(b) if any land, building or other property of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;

(c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;

(e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

(f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

<sup>1</sup>[(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;]

(h) if any funds of the trust or institution are, or continue to remain, invested for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern in which any person referred to in sub-section (3) has a substantial interest.

(3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely:—

(a) the author of the trust or the founder of the institution;

<sup>2</sup>[(b) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds <sup>3</sup>[fifty thousand] rupees];

(c) where such author, founder or person is a Hindu undivided family, a member of the family;

<sup>4</sup>[(cc) any trustee of the trust or manager (by whatever name called) of the institution;]

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1. Subs. by Act 16 of 1972, s. 7, for clause (g) (w.e.f. 1-4-1973).

2. Subs. by Act 41 of 1975, s. 5, for clause (b) (w.e.f. 1-4-1977).

3. Subs. by Act 32 of 1994, s. 9, for “twenty-five thousand” (w.e.f. 1-4-1995).

4. Ins. by Act 16 of 1972, s. 7 (w.e.f. 1-4-1973).

(d) any relative of any such author, founder, person, <sup>1</sup>[member, trustee or manager] as aforesaid;

(e) any concern in which any of the persons referred to in clauses (a), (b), <sup>2</sup>[(c), (cc)] and (d) has a substantial interest.

(4) Notwithstanding anything contained in clause (c) of sub-section (1) <sup>3</sup>[but without prejudice to the provisions contained in clause (d) of that sub-section, in a case where] the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent. of the capital of that concern, the exemption under <sup>4</sup>[section 11 or section 12] shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the <sup>5</sup>[funds of the trust or the institution] have been invested in a concern in which such person has a substantial interest.

<sup>6</sup>[(5) Notwithstanding anything contained in clause (d) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.]

<sup>7</sup>[(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), but without prejudice to the provisions contained in sub-section (2) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3).]

<sup>8</sup>[(7) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.]

<sup>9</sup>[(8) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in the said previous year.]

<sup>10</sup>[(9) Nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(i) the statement referred to in clause (a) of the said sub-section in respect of such income is not 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; or

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1. Subs. by Act 16 of 1972, s. 7, for “or member” (w.e.f. 1-4-1973).

2. Subs. by s. 7, *ibid.*, for “(c)” (w.e.f. 1-4-1973).

3. Subs. by Act 11 of 1983, s. 7, for “, in a case where” (w.e.f. 1-4-1983).

4. Subs. by Act 16 of 1972, s. 7, for “section 11” (w.e.f. 1-4-1973).

5. Subs. by Act 32 of 1971, s. 6, for “money of the trust or the institution” (w.e.f. 1-4-1971).

6. Ins. by Act 49 of 1991, s. 8 (w.e.f. 1-4-1983).

7. Ins. by Act 10 of 2000, s. 10 (w.e.f. 1-4-2001).

8. Ins. by Act 21 of 2006, s. 6 (w.e.f. 1-4-2007).

9. Ins. by Act 23 of 2012, s. 6 (w.e.f. 1-4-2009).

10. Ins. by Act 20 of 2015, s. 9 (w.e.f. 1-4-2016).



(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.]

<sup>1</sup>[*Explanation 1.*—For the purposes of sections 11, 12, 12A and this section, “trust” includes any other legal obligation and for the purposes of this section “relative”, in relation to an individual, means—

(i) spouse of the individual;

(ii) brother or sister of the individual;

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

(iv) any lineal ascendant or descendant of the individual;

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

(vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);

(vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.]

*Explanation 2.*—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (1).

*Explanation 3.*—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent. of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);

(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent. of the profits of such concern.]

<sup>2</sup>[**13A. Special provision relating to incomes of political parties.**—Any income of a political party which is chargeable under the head <sup>3</sup>\*\*\* “Income from house property” or “Income from other sources” or <sup>4</sup>[Capital gains or] any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party:

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1. Subs. by Act 16 of 1972, s. 7, for *Explanation 1* (w.e.f. 1-4-1973).

2. Ins. by Act 29 of 1978, s. 2 (w.e.f. 1-4-1979).

3. The words “Interest on securities” omitted by Act 26 of 1988, s. 7 (w.e.f. 1-4-1989).

4. Ins. by Act 32 of 2003, s. 12 (w.e.f. 1-4-1979).

Provided that—

(a) such political party keeps and maintains such books of account and other documents as would enable the <sup>1</sup>[Assessing Officer] to properly deduce its income therefrom;

(b) in respect of each such voluntary contribution <sup>2</sup>[other than contribution by way of electoral bond] in excess of <sup>3</sup>[twenty thousand rupees], such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; <sup>4</sup>\*\*\*

(c) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 <sup>2</sup>[; and]

<sup>2</sup>[(d) no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond.

*Explanation.*—For the purposes of this proviso, “electoral bond” means a bond referred to in the *Explanation* to sub-section (3) of section 31 of the Reserve Bank of India Act, 1934 (2 of 1934):]

<sup>5</sup>[Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year:]

<sup>2</sup>[Provided also that such political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under that section.]

<sup>6</sup>[*Explanation.*—For the purposes of this section, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).]

<sup>7</sup>[**13B. Special provisions relating to voluntary contributions received by electoral trust.**—Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

(a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(b) such electoral trust functions in accordance with the rules made by the Central Government.]

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1. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

2. Ins. by Act 7 of 2017, s. 11 (w.e.f. 1-4-2018).

3. Subs. by Act 46 of 2003, s. 8, for “ten thousand rupees” (w.e.f. 11-9-2003).

4. The word “and” omitted by Act 7 of 2017, s. 11 (w.e.f. 1-4-2018).

5. Ins. by Act 46 of 2003, s. 8 (w.e.f. 11-9-2003).

6. Subs. by s. 8, *ibid.*, for the *Explanation* (w.e.f. 11-9-2003).

7. Ins. by Act 33 of 2009, s. 8 (w.e.f. 1-4-2010).

## COMPUTATION OF TOTAL INCOME

**14. Heads of income.**—Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:—

$$1^* \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad * \qquad \qquad \qquad *$$

*F.*—Income from other sources.

<sup>5</sup>[Provided that nothing contained in this section shall empower the Assessing Officer either to reassess undersection 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee undersection 154, for any assessment year beginning on or before the 1st day of April, 2001.]

**15. Salaries.**—The following income shall be chargeable to income-tax under the head “Salaries”—

(b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;

5. Ins. by Act 20 of 2002, s. 10 (w.e.f. 11-5-2001).

(c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

*Explanation* <sup>1</sup>[1.]—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

<sup>2</sup>[*Explanation 2.*—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as “salary” for the purposes of this section.]

**16. Deductions from salaries.**—The income chargeable under the head “Salaries” shall be computed after making the following deductions, namely:—

<sup>3</sup>[<sup>4</sup>\* \* \* \* \*

<sup>5</sup>[(*ia*) a deduction of <sup>6</sup>[fifty thousand] rupees or the amount of the salary, whichever is less;]

(*ii*) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;]

<sup>7</sup>[(*iii*) a deduction of any sum paid by the assessee on account of a tax on employment within the meaning of clause (2) of article 276 of the Constitution, leviable by or under any law.]

<sup>8</sup>\* \* \* \* \*

**17. “Salary”, “perquisite” and “profits in lieu of salary” defined.**—For the purposes of sections 15 and 16 and of this section,—

(1) “salary” includes—

(*i*) wages;

(*ii*) any annuity or pension;

(*iii*) any gratuity;

(*iv*) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

(*v*) any advance of salary;

<sup>9</sup>[(*va*) any payment received by an employee in respect of any period of leave not availed of by him;]

(*vi*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule;

(*vii*) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof; and

1. *Explanation* renumbered as *Explanation 1* thereof by Act 18 of 1992, s. 6 (w.e.f. 1-4-1993).

2. Ins. by s. 6, *ibid.* (w.e.f. 1-4-1993). Earlier inserted by Act 4 of 1988, s. 8 (w.e.f. 1-4-1989) and later omitted by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

3. Subs. by Act 14 of 2001, s. 12, for clause (*i*) and (*ii*) (w.e.f. 1-4-2002).

4. Clause (*i*) omitted by Act 18 of 2005, s. 6 (w.e.f. 1-4-2006).

5. Ins. by Act 13 of 2018, s. 7 (w.e.f. 1-4-2019).

6. Subs. by Act 7 of 2019, s. 3, for “forty thousand” (w.e.f. 1-4-2020).

7. Ins. by Act 13 of 1989, s. 5 (w.e.f. 1-4-1990). Earlier clause (*iii*) omitted by Act 20 of 1974, s. 4 (w.e.f. 1-4-1975).

8. Clause (*iv*) and (*v*) omitted by Act 20 of 1974, s. 4 (w.e.f. 1-4-1975).

9. Ins. by Act 67 of 1984, s. 7 (w.e.f. 1-4-1978).

<sup>1</sup>[(viii) the contribution made by the <sup>2</sup>[Central Government or any other employer] in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;]

(2) “perquisite” includes—

(i) the value of rent-free accommodation provided to the assessee by his employer;

(ii) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;

<sup>3</sup>[*Explanation 1.*—For the purposes of this sub-clause, concession in the matter of rent shall be deemed to have been provided if,—

<sup>4</sup>[(a) in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and—

(i) the accommodation is owned by the employer, the value of the accommodation determined at the specified rate in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or fifteen per cent. of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;]

(b) in a case where a furnished accommodation is provided by the Central Government or any State Government, the licence fee determined by the Central Government or any State Government in respect of the accommodation in accordance with the rules framed by such Government as increased by the value of furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the aggregate of the rent recoverable from, or payable by, the assessee and any charges paid or payable for the furniture and fixtures by the assessee;

(c) in a case where a furnished accommodation is provided by an employer other than the Central Government or any State Government and—

(i) the accommodation is owned by the employer, the value of the accommodation determined under sub-clause (i) of clause (a) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation determined under sub-clause (ii) of clause (a) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(d) in a case where the accommodation is provided by the employer in a hotel (except where the assessee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another), the value of the

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1. Ins. by Act 23 of 2004, s. 7 (w.e.f. 1-4-2004).

2. Subs. by Act 22 of 2007, s. 11, for “Central Government” (w.r.e.f. 1-4-2004).

3. Ins. by s. 11, *ibid.* (w.r.e.f. 1-4-2002).

4. Subs. by s. 11, *ibid.*, for clause (a) (w.r.e.f. 1-4-2006).

*Explanation 2.*—For the purposes of this sub-clause, value of furniture and fixture shall be ten per cent. per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the assessee during the previous year.

(a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

(b) employer's contribution to the provident fund account of the employee;

(c) allowances which are exempted from the payment of tax;

(d) value of the perquisites specified in this clause;

(e) any payment or expenditure specifically excluded under the proviso to this clause.]

(c) by any employer (including a company) to an employee to whom the provisions of paragraphs (a) and (b) of this sub-clause do not apply and whose income <sup>2</sup>[under the head “Salaries” (whether due from, or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds <sup>3</sup>[fifty thousand rupees:]]

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<sup>1</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence, shall not be regarded as a benefit or amenity granted or provided to him free of cost or at concessional rate for the purposes of this sub-clause;]

<sup>2</sup>\*

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(iv) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee;

(v) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund <sup>3</sup>[or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)], to effect an assurance on the life of the assessee or to effect a contract for an <sup>4</sup>[annuity;]

<sup>5</sup>[(vi) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

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

(a) “specified security” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(b) “sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares;

(d) “fair market value” means the value determined in accordance with the method as may be prescribed;

(e) “option” means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(vii) the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds <sup>6</sup>[one lakh rupees]; and

(viii) the value of any other fringe benefit or amenity as may be prescribed;]

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1. Ins. by Act 13 of 1989, s. 6 (w.e.f. 1-4-1990).

2. Sub-clause (iia) omitted by Act 10 of 2000, s. 11 (w.e.f. 1-4-2001).

3. Ins. by Act 99 of 1976, s. 40 (w.e.f. 1-8-1976).

4. Subs. by Act 33 of 2009, s. 9, for “annuity; and” (w.e.f. 1-4-2010).

5. Subs. by s. 9, *ibid.*, for sub-clause (vi) (w.e.f. 1-4-2010).

6. Subs. by Act 28 of 2016, s. 9, for “one lakh and fifty thousand rupees” (w.e.f. 1-4-2017).

<sup>1</sup>[Provided that nothing in this clause shall apply to,—

(i) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

<sup>2</sup>[(ii) 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—

(a) in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(b) in respect of the prescribed diseases or ailments, in any hospital approved by the <sup>3</sup>[Principal Chief Commissioner or Chief Commissioner] having regard to the prescribed guidelines:

Provided that, in a case falling in sub-clause (b), the employee shall attach with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital;]

(iii) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved by the Central Government <sup>4</sup>[or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),] for the purposes of clause (ib) of sub-section (1) of section 36;

(iv) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government <sup>4</sup>[or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),] for the purposes of section 80D;

<sup>5</sup>\* \* \* \* \*

(vi) any expenditure incurred by the employer on—

(1) medical treatment of the employee, or any member of the family of such employee, outside India;

(2) <sup>6</sup>[travel and stay] abroad of the employee or any member of the family of such employee for medical treatment;

(3) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment,

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1. Ins. by Act 49 of 1991, s. 9 (w.e.f. 1-4-1991).

2. Subs. by Act 32 of 1994, s. 10, for sub-clause (ii) (w.r.e.f. 1-4-1993). Earlier substituted by Act 18 of 1992, s. 8 (w.e.f. 1-4-1993).

3. Subs. by Act 25 of 2014, s. 4, for “Chief Commissioner” (w.e.f. 1-6-2013).

4. Ins. by Act 21 of 2006, s. 8 (w.e.f. 1-4-2007).

5. Clause (v) omitted by Act 13 of 2018, s. 8 (w.e.f. 1-4-2019).

6. Subs. by Act 38 of 1993, s. 8, for “travel or stay” (w.e.f. 1-4-1993).



<sup>1</sup>[subject to the condition that—

(A) the expenditure on medical treatment and stay abroad shall be excluded from perquisite only to the extent permitted by the Reserve Bank of India; and

(B) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees;]

(vii) any sum paid by the employer in respect of any expenditure actually incurred by the employee for any of the purposes specified in clause (vi) subject to the conditions specified in or under that clause:

<sup>2</sup>[Provided further that for the assessment year beginning on the 1st day of April, 2002, nothing contained in this clause shall apply to any employee whose income under the head “Salaries” (whether due from, or paid or allowed by, one or more employers) exclusive of the value of all perquisites not provided for by way of monetary payment, does not exceed one lakh rupees.]

*Explanation.*—For the purposes of clause (2),—

(i) “hospital” includes a dispensary or a clinic <sup>3</sup>[or a nursing home];

(ii) “family”, in relation to an individual, shall have the same meaning as in clause (5) of section 10; and

(iii) “gross total income” shall have the same meaning as in clause (5) of section 80B;]

<sup>4</sup>\* \* \* \* \*

(3) “profits in lieu of salary” includes—

(i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(ii) any payment [other than any payment referred to in clause (10) <sup>5</sup>[, clause (10A)] <sup>6</sup>[, clause (10B)], clause (11), <sup>7</sup>[clause (12) <sup>8</sup>[, clause (13)] or clause (13A)] of section 10], due to or received by an assessee from an employer or a former employer or from a provident or other fund <sup>9</sup>\*\*\*, to the extent to which it does not consist of contributions by the assessee or <sup>10</sup>[interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

*Explanation.*—For the purposes of this sub-clause, the expression “Keyman insurance policy” shall have the meaning assigned to it in clause (10D) of section 10;]

<sup>11</sup>[(iii) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(A) before his joining any employment with that person; or

(B) after cessation of his employment with that person.]

1. Subs. by Act 38 of 1993, s. 8, for certain words (w.e.f. 1-4-1993)

2. Ins. by Act 20 of 2002, s. 11 (w.e.f. 1-4-2002).

3. Ins. by Act 18 of 1992, s. 8 (w.e.f. 1-4-1993).

4. Sub-clause (vi) omitted by Act 32 of 1985, s. 7 (w.e.f. 1-4-1985).

5. Ins. by Act 15 of 1965, s. 4 (w.e.f. 1-4-1962).

6. Ins. by Act 25 of 1975, s. 24 (w.e.f. 1-4-1976).

7. Subs. by Act 31 of 1964, s. 4, for “or clause (12)” (w.e.f. 6-10-1964).

8. Ins. by Act 22 of 1995, s. 6 (w.e.f. 1-4-1996).

9. The brackets and words “(not being an approved superannuation fund)” omitted by s. 6, *ibid.* (w.e.f. 1-4-1996).

10. Subs. by Act 33 of 1996, s. 8, for “interest on such contributions.” (w.e.f. 1-10-1996).

11. Ins. by Act 14 of 2001, s. 13 (w.e.f. 1-4-2002).

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18. [*Interest on securities.*].—Omitted by the Finance Act, 1988 (26 of 1988), s. 10 (w.e.f. 1-4-1989).

19. [*Deductions from interest on securities.*].—Omitted by s. 10, *ibid.* (w.e.f. 1-4-1989).

20. [*Deductions from interest on securities in the case of a banking company.*].—Omitted by s. 10, *ibid.* (w.e.f. 1-4-1989).

21. [*Amounts not deductible from interest on securities.*].—Omitted by s. 10, *ibid.* (w.e.f. 1-4-1989).

*C.—Income from house property*

**22. Income from house property.**—The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head “Income from house property”.

<sup>2</sup>[**23. Annual value how determined.**—(1) For the purposes of section 22, the annual value of any property shall be deemed to be—

(a) the sum for which the property might reasonably be expected to let from year to year; or

(b) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or

(c) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable:

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

*Explanation.*—For the purposes of clause (b) or clause (c) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

(2) Where the property consists of a house or part of a house which—

(a) is in the occupation of the owner for the purposes of his own residence; or

(b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him,

the annual value of such house or part of the house shall be taken to be *nil*.

(3) The provisions of sub-section (2) shall not apply if—

(a) the house or part of the house is actually let during the whole or any part of the previous year; or

(b) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than <sup>3</sup>[two houses]—

(a) the provisions of that sub-section shall apply only in respect of <sup>4</sup>[two] of such houses, which the assessee may, at his option, specify in this behalf;

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1. The heading “*B.—Interest on securities*” omitted by Act 26 of 1988, s. 10 (w.e.f. 1-4-1989).

2. Subs. by Act 14 of 2001, s. 14, for section 23 (w.e.f. 1-4-2002).

3. Subs. by Act 7 of 2019, s. 4, for “one house” (w.e.f. 1-4-2020).

4. Subs. by s. 4, *ibid.*, for “one” (w.e.f. 1-4-2020).

(b) the annual value of the house or houses, <sup>1</sup>[other than the house or houses] in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let.]

<sup>2</sup>[(5) Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to <sup>3</sup>[two years] from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be *nil*.]

<sup>4</sup>[**24. Deductions from income from house property.**—Income chargeable under the head “Income from house property” shall be computed after making the following deductions, namely:—

(a) a sum equal to thirty per cent. of the annual value;

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23, the amount of deduction <sup>5</sup>[or, as the case may be, the aggregate of the amount of deduction] shall not exceed thirty thousand rupees:

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed <sup>6</sup>[within <sup>7</sup>[five years] from the end of the financial year in which capital was borrowed], the amount of deduction <sup>5</sup>[or, as the case may be, the aggregate of the amounts of deduction] under this clause shall not exceed <sup>8</sup>[two lakh rupees].

*Explanation.*—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years:]

<sup>9</sup>[Provided also that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

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

<sup>5</sup>[Provided also that the aggregate of the amounts of deduction under the first and second provisos shall not exceed two lakh rupees.]

**25. Amounts not deductible from income from house property.**—Notwithstanding anything contained in section 24, any <sup>10</sup>\*\*\* interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head “Income from house property”.

1. Subs. by Act 7 of 2019, s. 4, for “other than the house” (w.e.f. 1-4-2020).

2. Ins. by Act 7 of 2017, s. 12 (w.e.f. 1-4-2018)

3. Subs. by Act 7 of 2019, s. 5, for “one year” (w.e.f. 1-4-2020).

4. Subs. by Act 14 of 2001, s. 15, for section 24 (w.e.f. 1-4-2002).

5. Ins. by Act 7 of 2019, s. 5 (w.e.f. 1-4-2020).

6. Subs. by Act 20 of 2002, s. 12, for “before the 1st day of April, 2003” (w.e.f. 1-4-2003).

7. Subs. by Act 28 of 2016, s. 10, for “three years” (w.e.f. 1-4-2017).

8. Subs. by Act 25 of 2014, s. 10, for “one lakh fifty thousand rupees” (w.e.f. 1-4-2015).

9. Ins. by Act 20 of 2002, s. 12 (w.e.f. 1-4-2003).

10. The words “annual charge or” omitted by Act 14 of 2001, s. 16 (w.e.f. 1-4-2002).

<sup>1</sup>[**25A. Special provision for arrears of rent and unrealised rent received subsequently.**—(1) The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant, as the case may be, by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head “Income from house property”, whether the assessee is the owner of the property or not in that financial year.

(2) A sum equal to thirty per cent. of the arrears of rent or the unrealised rent referred to in sub-section (1) shall be allowed as deduction.]

**26. Property owned by co-owners.**—Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income.

<sup>2</sup>[*Explanation.*—For the purposes of this section, in applying the provisions of sub-section (2) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.

**27. “Owner of house property”, “annual charge”, etc., defined.**—For the purposes of sections 22 to 26—

(i) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;

(ii) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate ;

<sup>3</sup>[(iii) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof;

(iiia) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), shall be deemed to be the owner of that building or part thereof;

(iiib) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (f) of section 269 UA, shall be deemed to be the owner of that building or part thereof;]

<sup>4</sup>\* \* \* \* \*

(vi) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

**28. Profits and gains of business or profession.**—The following income shall be chargeable to income-tax under the head “Profits and gains of business or profession”,—

(i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year;

(ii) any compensation or other payment due to or received by,—

(a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;

1. Subs. by Act 28 of 2016, s. 11 for sections 25A, 25AA and 25B (w.e.f. 1-4-2017).

2. Ins. by Act 41 of 1975, s. 7 (w.e.f. 1-4-1976).

3. Subs. by Act 11 of 1987, s. 6, for clause (iii) (w.e.f. 1-4-1988).

4. Clauses (iv) and (v) omitted by Act 14 of 2001, s. 20 (w.e.f. 1-4-2002).

(b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto;

(c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto ;

<sup>1</sup>[(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;]

<sup>2</sup>[(e) any person, by whatever name called, at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business;]

(iii) income derived by a trade, professional or similar association from specific services performed for its members ;

<sup>3</sup>[(iiia) profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947);]

<sup>4</sup>[(iiib) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India;]

<sup>5</sup>[(iiic) any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971;]

<sup>6</sup>[(iiid) any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);]

<sup>7</sup>[(iiie) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);]

<sup>8</sup>[(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;]

<sup>9</sup>[(v) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm:

Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted;]

<sup>10</sup>[(va) any sum, whether received or receivable, in cash or kind, under an agreement for—

(a) not carrying out any activity in relation to any business <sup>11</sup>[or profession]; or

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1. Ins. by Act 21 of 1973, s. 4 (w.e.f. 1-4-1972).

2. Ins. by Act 13 of 2018, s. 9 (w.e.f. 1-4-2019).

3. Ins. by Act 12 of 1990, s. 6 (w.e.f. 1-4-1962).

4. Ins. by s. 6, *ibid.* (w.e.f. 1-4-1967).

5. Ins. by s. 6, *ibid.* (w.e.f. 1-4-1972).

6. Ins. by Act 55 of 2005, s. 3 (w.e.f. 1-4-1998).

7. Ins. by s. 3, *ibid.* (w.e.f. 1-4-2001).

8. Ins. by Act 5 of 1964, s. 7 (w.e.f. 1-4-1964).

9. Ins. by Act 18 of 1992, s. 11 (w.e.f. 1-4-1993). Earlier clause (v) was inserted by Act 4 of 1988, s. 9 (w.e.f. 1-4-1989) and later omitted by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

10. Ins. by Act 20 of 2002, s. 13 (w.e.f. 1-4-2003).

11. Ins. by Act 28 of 2016, s. 12 (w.e.f. 1-4-2017)

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

Provided that sub-clause (a) shall not apply to—

(i) any sum, whether received or receivable, in cash or kind, on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business <sup>1</sup>[or profession], which is chargeable under the head “Capital gains”;

(ii) any sum received as compensation, from the multi-lateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India.

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

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

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

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

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

<sup>2</sup>[(vi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

<sup>3</sup>[(via) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner;]

*Explanation.*—For the purposes of this clause, the expression “Keyman insurance policy” shall have the meaning assigned to it in clause (10D) of section 10;]

<sup>4</sup>[(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.]

<sup>5</sup>\* \* \* \* \*

*Explanation 2.*—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as “speculation business”) shall be deemed to be distinct and separate from any other business.

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1. Ins. by Act 28 of 2016, s. 12 (w.e.f. 1-4-2017).

2. Ins. by Act 33 of 1996, s. 10 (w.e.f. 1-10-1996).

3. Ins. by Act 13 of 2018, s. 9 (w.e.f. 1-4-2019).

4. Ins. by Act 33 of 2009, s. 10 (w.e.f. 1-4-2010).

5. *Explanation 1* omitted by 4 of 1988, s. 9 (w.e.f. 1-4-1989).

**29. Income from profits and gains of business or profession, how computed.**—The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to <sup>1</sup>[43D].

**30. Rent, rates, taxes, repairs and insurance for buildings.**—In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed—

(a) where the premises are occupied by the assessee—

(i) as a tenant, the rent paid for such premises; and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs;

(ii) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises;

(b) any sums paid on account of land revenue, local rates or municipal taxes;

(c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

<sup>2</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause (i), and the amount paid on account of current repairs referred to in sub-clause (ii), of clause (a), shall not include any expenditure in the nature of capital expenditure.]

**31. Repairs and insurance of machinery, plant and furniture.**—In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

(i) the amount paid on account of current repairs thereto;

(ii) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof.

<sup>3</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.]

**32. Depreciation.**—(1) <sup>4</sup>[In respect of depreciation of—

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—

<sup>5</sup>[(i) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed;]

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1. Subs. by Act 49 of 1991, s. 10, for “43C” (w.e.f. 1-4-1992).

2. Ins. by Act 32 of 2003, s. 14 (w.e.f. 1-4-2004).

3. Ins. by s. 15, *ibid.* (w.e.f. 1-4-2004).

4. Subs. by Act 21 of 1998, s. 9, for certain words and figures (w.e.f. 1-4-1999).

5. Ins. by Act 7 of 1998, s. 2 (w.e.f. 1-4-1998).

(ii) <sup>1</sup>[in the case of any block of assets, such percentage on the written down value thereof as may be prescribed:]

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<sup>3</sup>[Provided <sup>4</sup>\*\*\* that no deduction shall be allowed under this clause in respect of—

(a) any motor car manufactured outside India, where such motor car is acquired by the assessee after the 28th day of February, 1975 <sup>5</sup>[but before the 1st day of April, 2001], unless it is used—

(i) in a business of running it on hire for tourists; or

(ii) outside India in his business or profession in another country; and

(b) any machinery or plant if the actual cost thereof is allowed as a deduction in one or more years under an agreement entered into by the Central Government under section 42:]

<sup>6</sup>[Provided further that where an asset referred to in clause (i) <sup>7</sup>[or clause (ii) or clause (iia)] <sup>8</sup>[or the first proviso to clause (iia)], as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (i) <sup>7</sup>[or clause (ii) or clause (iia)], as the case may be:]

<sup>8</sup>[Provided also that where an asset referred to in clause (iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (iia) for that previous year, then, the deduction for the balance fifty per cent. of the amount calculated at the percentage prescribed for such asset under clause (iia) shall be allowed under this sub-section in the immediately succeeding previous year in respect of such asset:]

<sup>9</sup>[Provided also that where an asset being commercial vehicle is acquired by the assessee on or after the 1st day of October, 1998 but before the 1st day of April, 1999 and is put to use before the 1st day of April, 1999 for the purposes of business or profession, the deduction in respect of such asset shall be allowed on such percentage on the written down value thereof as may be prescribed.]

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1. Subs. by Act 46 of 1986, s. 5, for the opening paragraph (w.e.f. 1-4-1988).

2. The first proviso omitted by Act 22 of 1995, s. 7 (w.e.f. 1-4-1996).

3. Subs. by Act 49 of 1991, s. 11, for the second proviso (w.e.f. 1-4-1992).

4. The word “further” omitted by Act 22 of 1995, s. 7 (w.e.f. 1-4-1996).

5. Ins. by Act 14 of 2001, s. 21 (w.e.f. 1-4-2002).

6. Subs. by Act 7 of 1998, s. 2, for the second proviso (w.e.f. 1-4-1998).

7. Subs. by Act 20 of 2002, s. 14, for “or clause (ii)” (w.e.f. 1-4-2003).

8. Ins. by Act 20 of 2015, s. 10 (w.e.f. 1-4-2016).

9. Ins. by Act 11 of 1999, s. 5 (w.e.f. 1-4-1999).



*Explanation.*—For the purposes of this proviso,—

(a) the expression “commercial vehicle” means “heavy goods vehicle”, “heavy passenger motor vehicle”, “light motor vehicle”, “medium goods vehicle” and “medium passenger motor vehicle” but does not include “maxi-cab”, “motor-cab”, “tractor” and “road-roller”;

(b) the expressions “heavy goods vehicle”, “heavy passenger motor vehicle”, “light motor vehicle”, “medium goods vehicle”, “medium passenger motor vehicle”, “maxi-cab”, “motor-cab”, “tractor” and “road roller” shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);]

<sup>1</sup>[Provided also that, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, the deduction in relation to any block of assets under this clause shall, in the case of a company, be restricted to seventy-five per cent. of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1991 (2 of 1991):]

<sup>2</sup>[Provided also that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the predecessor and the successor in the case of succession referred to in <sup>3</sup>[clause (xiii), clause (xiiib) and clause (xiv)] of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.]

<sup>4</sup>[*Explanation 1.*—Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

*Explanation 2.*—<sup>5</sup>[For the purposes of this sub-section] “written down value of the block of assets” shall have the same meaning as in clause (c) of sub-section (6) of section 43.]

<sup>6</sup>[*Explanation 3.*—For the purposes of this sub-section, <sup>7</sup>[the expression “assets”] shall mean—

(a) tangible assets, being buildings, machinery, plant or furniture;

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1. Ins. by Act 2 of 1991, s. 4 (w.e.f. 15-1-1991). Later Act 2 of 1991 repealed by Act 23 of 2016, s. 2 and the First Schedule (except s. 6) (w.e.f. 6-5-2016).

2. Subs. by Act 27 of 1999, s. 12, for the fourth proviso (w.e.f. 1-4-2000).

3. Subs. by Act 14 of 2010, s. 8, for “clause (xiii) and clause (xiv)” (w.e.f. 1-4-2011).

4. Ins. by Act 46 of 1986, s. 5 (w.e.f. 1-4-1988).

5. Subs. by Act 20 of 2002, s. 14, for “For the purposes of this clause” (w.e.f. 1-4-2003).

6. Ins. by Act 21 of 1998, s. 9 (w.e.f. 1-4-1999).

7. Subs. by Act 33 of 2009, s. 11, for ‘the expressions “assets” and “block of assets” (w.e.f. 1-4-2010).

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

*Explanation 4.*—For the purposes of this sub-section, the expression “know-how” means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto).]

<sup>1</sup>[*Explanation 5.*—For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;]

<sup>2</sup>[(*iiia*) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing <sup>3</sup><sup>4</sup>[or in the business of generation, transmission or distribution] of power], a further sum equal to twenty per cent. of the actual cost of such machinery or plant shall be allowed as deduction under clause (*ii*):

<sup>5</sup>[Provided that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (*iiia*) shall have effect, as if for the words “twenty per cent.”, the words “thirty-five per cent.” had been substituted:]

<sup>6</sup>[Provided further] that no deduction shall be allowed in respect of—

(A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or

(B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or

(C) any office appliances or road transport vehicles; or

(D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year;]

<sup>7</sup>[(*iiiii*) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (*i*) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which

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1. Ins. by Act 14 of 2001, s. 21 (w.e.f. 1-4-2002).

2. Subs. by Act 18 of 2005, s. 8, for clause (*iiia*) (w.e.f. 1-4-2006).

3. Ins. by Act 23 of 2012, s. 7 (w.e.f. 1-4-2013).

4. Subs. by Act 28 of 2016, s. 13, for “or in the business of generation or generation and distribution” (w.e.f. 1-4-2017).

5. Ins. by Act 20 of 2015, s. 10 (w.e.f. 1-4-2016).

6. Subs. by s. 10, *ibid.*, for “Provided” (w.e.f. 1-4-2016).

7. Ins. by Act 21 of 1998, s. 9 (w.e.f. 1-4-1998).

the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

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

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) “sold” includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is <sup>1</sup>[an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (15) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of that Act of any asset by the banking company to the banking institution].]

<sup>2</sup>\* \* \* \* \*

<sup>3</sup>\* \* \* \* \*

<sup>4</sup>[(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.]

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1. Subs. by Act 18 of 2005, s. 8, for “an Indian Company” (w.e.f. 1-4-2005).

2. Clauses (iv), (v) and (vi) omitted by Act 46 of 1986, s. 5 (w.e.f. 1-4-1988).

3. Sub-section (1A) omitted by s. 5, *ibid.* (w.e.f. 1-4-1988).

4. Subs. by Act 14 of 2001, s. 21, for sub-section (2) (w.e.f. 1-4-2002).

<sup>1</sup>[**32A. Investment allowance.**—(1) In respect of a ship or an aircraft or machinery or plant specified in sub-section (2), which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, in respect of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, of a sum by way of investment allowance equal to twenty-five per cent.. of the actual cost of the ship, aircraft, machinery or plant to the assessee:

<sup>2</sup>[Provided that in respect of a ship or an aircraft or machinery or plant specified in sub-section (8B), this sub-section shall have effect as if for the words “twenty-five per cent.”, the words “twenty per cent.” had been substituted:

Provided further that] no deduction shall be allowed under this section in respect of—

(a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house ;

(b) any office appliances or road transport vehicles;

(c) any ship, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33; and

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year.

<sup>2</sup>[*Explanation.*—For the purposes of this sub-section, “actual cost” means the actual cost of the ship, aircraft, machinery or plant to the assessee as reduced by that part of such cost which has been met out of the amount released to the assessee under sub-section (6) of section 32AB.]

(2) The ship or aircraft or machinery or plant referred to in sub-section (1) shall be the following, namely:—

(a) a new ship or new aircraft acquired after the 31st day of March, 1976, by an assessee engaged in the business of operation of ships or aircraft ;

(b) any new machinery or plant installed after the 31st day of March, 1976,—

(i) for the purposes of business of generation or distribution of electricity or any other form of power; or

<sup>3</sup>[(ii) in a small-scale industrial undertaking for the purposes of business of manufacture or production of any article or thing ; or

(iii) in any other industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing, not being an article or thing specified in the list in the Eleventh Schedule:]

<sup>2</sup>[Provided that nothing contained in clauses (a) and (b) shall apply in relation to,—

(i) a new ship or new aircraft acquired, or

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1. Ins. by Act 66 of 1976, s. 8 (w.e.f. 1-4-1976).

2. Ins. by Act 3 of 1989, s. 6 (w.e.f. 1-4-1989).

3. Subs. by Act 29 of 1977, s. 9, for sub-clauses (ii) and (iii) (w.e.f. 1-4-1978).

(ii) any new machinery or plant installed,

after the 31st day of March, 1987 but before the 1st day of April, 1988, unless such ship or aircraft is acquired or such machinery or plant is installed in the circumstances specified in clause (a) of sub-section (8B) and the assessee furnishes evidence to the satisfaction of the Assessing Officer as specified in that clause;]

<sup>1</sup>[(c) any new machinery or plant installed after the 31st day of March, 1983, but before the <sup>2</sup>[1st day of April, 1987,] for the purposes of business of repairs to ocean-going vessels or other powered craft if the business is carried on by an Indian company and the business so carried on is for the time being approved for the purposes of this clause by the Central Government.]

*Explanation.*—For the purposes of <sup>3</sup>[this sub-section and sub-sections (2B), (2C) and (4)],—

<sup>4</sup>[(1) (a) “new ship” or “new aircraft” includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(b) “new machinery or plant” includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely:—

(i) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(ii) such machinery or plant is imported into India from any country outside India; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee,]

(2) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant (other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of <sup>5</sup>[the business of the undertaking does not exceed,—

<sup>6</sup>[(i) in a case where the previous year ends before the 1st day of August, 1980, ten lakh rupees;

(ii) in a case where the previous year ends after the 31st day of July, 1980, but before the 18th day of March, 1985, twenty lakh rupees; and

(iii) in a case where the previous year ends after the 17th day of March, 1985, thirty-five lakh rupees,]]

and for this purpose the value of any machinery or plant shall be,—

(a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee; and

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1. Ins. by Act 11 of 1983, s. 11 (w.e.f. 1-4-1984).

2. Subs. by Act 23 of 1986, s. 7, for “1st day of April, 1988,” (w.e.f. 1-4-1987).

3. Subs. by Act 11 of 1983, s. 11, for “this sub-section and sub-sections (2B) and (4)” (w.e.f. 1-6-1983).

4. Subs. by Act 46 of 1986, s. 32, for clause (1) (w.e.f. 1-4-1988).

5. Subs. by Act 16 of 1981, s. 5, for certain words (w.e.f. 1-4-1981).

6. Subs. by Act 23 of 1986, s. 7, for sub-clause (i) (w.e.f. 1-4-1985).

(b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant.

<sup>1</sup>[(2A) The deduction under sub-section (I) shall not be denied in respect of any machinery or plant installed and used mainly for the purposes of business of construction, manufacture or production of any article or thing, not being an article or thing specified in the list in the Eleventh Schedule, by reason only that such machinery or plant is also used for the purposes of business of construction, manufacture or production of any article or thing specified in the said list.

(2B) Where any new machinery or plant is installed after the 30th day of June, 1977, <sup>2</sup>[but before the 1st day of April, 1987], for the purposes of business of manufacture or production of any article or thing and such article or thing—

(a) is manufactured or produced by using any technology (including any process) or other know how developed in, or

(b) is an article or thing invented in,

a laboratory owned or financed by the Government, or a laboratory owned by a public sector company or a University or by an institution recognised in this behalf by the prescribed authority, the provisions of sub-section (I) shall have effect in relation to such machinery or plant as if for the words “twenty-five per cent..”, the words “thirty-five per cent..” had been substituted, if the following conditions are fulfilled, namely:—

(i) the right to use such technology (including any process) or other know-how or to manufacture or produce such article or thing has been acquired from the owner of such laboratory or any person deriving title from such owner ;

(ii) the assessee furnishes, along with his return of income for the assessment year for which the deduction is claimed, a certificate from the prescribed authority to the effect that such article or thing is manufactured or produced by using such technology (including any process) or other knowhow developed in such laboratory or is an article or thing invented in such laboratory; and

(iii) the machinery or plant is not used for the purpose of business of manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

*Explanation.*—For the purposes of this sub-section,—

(a) “laboratory financed by the Government” means a laboratory owned by any body including a society registered under the Societies Registration Act, 1860 (21 of 1860) and financed wholly or mainly by the Government;

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(c) “University” means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956) to be a University for the purposes of that Act.]

<sup>4</sup>[(2C) Where any new machinery or plant, being machinery or plant which would assist in control of pollution or protection of environment and which has been notified in this behalf by the Central Government in the Official Gazette, is installed after the 31st day of May, 1983 but

1. Ins. by Act 29 of 1977, s. 9 (w.e.f. 1-4-1978).

2. Subs. by Act 14 of 1982, s. 8, for “but before the 1st day of April, 1982” (w.e.f. 1-4-1982).

3. Clause (b) omitted by Act 11 of 1987, s. 74 (w.e.f. 1-4-1987).

4. Ins. by Act 11 of 1983, s. 11 (w.e.f. 1-6-1983).

before the 1st day of April, 1987, in any industrial undertaking referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (2), the provisions of sub-section (1) shall have effect in relation to such machinery or plant as if for the words “twenty-five per cent.”, the words “thirty-five per cent.” had been substituted.]

(3) Where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, or, as the case may be, the immediately succeeding previous year (the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A) is nil or is less than the full amount of the investment allowance,—

(i) the sum to be allowed by way of investment allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to nil; and

(ii) the amount of the investment allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the investment allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the investment allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, as the case may be, the immediately succeeding previous year.

*Explanation.*—Where for any assessment year, investment allowance is to be allowed in accordance with the provisions of this sub-section in respect of any ship or aircraft acquired or any machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely:—

(a) the allowance under clause (ii) shall be made before any allowance under clause (i) is made; and

(b) where an allowance has to be made under clause (ii) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(4) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(i) the particulars prescribed in this behalf have been furnished by the assessee in respect of the ship or aircraft or machinery or plant;

(ii) an amount equal to seventy-five per cent. of the investment allowance to be actually allowed is debited to the profit and loss account of <sup>1</sup>[any previous year in respect of which the deduction is to be allowed under sub-section (3) or any earlier previous year (being a previous year not earlier than the year in which the ship or aircraft was acquired or the

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1. Subs. by Act 12 of 1990, s. 7, for “the previous year in respect of which the deduction is to be allowed” (w.e.f. 1-4-1976).

machinery or plant was installed or the ship, aircraft, machinery or plant was first put to use)] and credited to a reserve account (to be called the “Investment Allowance Reserve Account”) to be utilised—

(a) for the purposes of acquiring, before the expiry of a period of ten years next following the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of <sup>1</sup>[the second proviso] to sub-section (1)] for the purposes of the business of the undertaking; and

(b) until the acquisition of a new ship or a new aircraft or new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India:

Provided that this clause shall have effect in respect of a ship as if for the word “seventy-five”, the word “fifty” had been substituted.

*Explanation.*—Where the amount debited to the profit and loss account and credited to the Investment Allowance Reserve Account under this sub-section is not less than the amount required to be so credited on the basis of the amount of deduction in respect of investment allowance claimed in the return made by the assessee under section 139, but a higher deduction in respect of the investment allowance is admissible on the basis of the total income as proposed to be computed by the <sup>2</sup>[Assessing Officer] under section 143, the <sup>2</sup>[Assessing Officer] shall, by notice in writing in this behalf, allow the assessee an opportunity to credit within the time specified in the notice or within such further time as the <sup>2</sup>[Assessing Officer] may allow, a further amount to the Investment Allowance Reserve Account out of the profits and gains of the previous year in which such notice is served on the assessee or of the immediately preceding previous year, if the accounts for that year have not been made up; and, if the assessee credits any further amount to such account within the time aforesaid, the amount so credited shall be deemed to have been credited to the Investment Allowance Reserve Account of the previous year in which the deduction is admissible and such amount shall not be taken into account in determining the adequacy of the reserve required to be created by the assessee in respect of the previous year in which such further credit is made:

Provided that such opportunity shall not be allowed by the <sup>2</sup>[Assessing Officer] in a case where the difference in the total income as proposed to be computed by him and the total income as returned by the assessee arises out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of that section or the omission by the assessee to disclose his income fully and truly.

(5) Any allowance made under this section in respect of any ship, aircraft, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act—

(a) if the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed; or

(b) if at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than

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1. Subs. by Act 3 of 1989, s. 6, for “the proviso” (w.e.f. 1-4-1989).

2. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).