

THE INCOME-TAX (AMENDMENT) ACT, 1981

No. 22 OF 1981

[4th September, 1981.]

An Act further to amend the Income-tax Act, 1961.

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

1. (1) This Act may be called the Income-tax (Amendment) Act, 1981. Short title and commencement.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1961.

2. In section 269A of the Income-tax Act, 1961 (hereinafter referred to as the principal Act),— Amendment of section 269A.

(a) in clause (a),—

(i) in the opening portion, for the words “apparent consideration”, in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (i) of clause (a), means,—

“apparent consideration”,—

(1) in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (i) of clause (e), means,—

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

“(iii) if the transfer is by way of lease,—

(A) in a case where the consideration for the transfer consists of premium only, the

¹1st July 1982, *vide* Notification No. S. O. 280 (E), dated 23-4-1982, Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), page. 472.

amount of premium as specified in the instrument of transfer;

(B) in a case where the consideration for the transfer consists of rent only, the aggregate of the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the instrument of transfer;

(C) in a case where the consideration for the transfer consists of premium and rent, the aggregate of the amount of the premium, the moneys (if any) payable by way of rent and the amounts for the service or things forming part of or constituting the rent, as specified in the instrument of transfer,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such transfer the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such transfer, determined by adopting the rate of interest at eight per cent. per annum;

(2) in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (ii) of clause (e), means—

(i) in a case where the consideration for the transfer consists of a sum of money only, such sum;

(ii) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of the transfer;

(iii) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of the transfer and such sum,

and where the whole or any part of the consideration for such transfer is payable on any date or dates falling after the date of such transfer, the value of the consideration payable after such date shall be deemed to be the discounted value of such consideration, as on the date of such transfer,

determined by adopting the rate of interest at eight per cent. per annum;”;

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

‘(d) “fair market value”,—

(i) in relation to any immovable property transferred by way of sale or exchange, being immovable property of the nature referred to in sub-clause (i) of clause (e), means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

(ii) in relation to any immovable property transferred by way of lease, being immovable property of the nature referred to in sub-clause (i) of clause (e), means the premium that such transfer would ordinarily fetch in the open market on the date of execution of the instrument of transfer of such property, if the consideration for such transfer had been by way of premium only;

(iii) in relation to any immovable property transferred, being immovable property of the nature referred to in sub-clause (ii) of clause (e), means the consideration in the form of money that such transfer would ordinarily fetch in the open market on the date of the transfer, if such transfer had been made only for consideration in money;”;

(c) in clause (e),—

(i) in the opening portion, for the words “immovable property” means any land or any building’, the following shall be substituted, namely:—

“immovable property” means,—

(i) any land or any building’;

(ii) in the *Explanation*, for the words “this clause”, the words “this sub-clause” shall be substituted;

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

“(ii) any rights of the nature referred to in clause (b) of sub-section (1) of section 269AB;”;

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

‘(f) “instrument of transfer” means the instrument of transfer registered under the Registration Act, 1908

or, as the case may be, the statement registered under section 269AB with the competent authority;";

(e) for clause (h), the following clause shall be substituted, namely:—

'(h) "transfer",—

(i) in relation to any immovable property referred to in sub-clause (i) of clause (e), means transfer of such property by way of sale or exchange or lease for a term of not less than twelve years, and includes allowing the possession of such property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882.

4 of 1882

Explanation.—For the purposes of this sub-clause, a lease which provides for the extension of the term thereof by a further term or terms shall be deemed to be a lease for a term of not less than twelve years if the aggregate of the term for which such lease has been granted and the further term or terms for which it can be so extended is not less than twelve years;

(ii) in relation to any immovable property of the nature referred to in sub-clause (ii) of clause (e), means the doing of anything (whether by way of transfer of shares in a co-operative society or company or by way of any agreement or arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, such property.'

Insertion of
new section
269AB.

3. After section 269A of the principal Act, the following section shall be inserted, namely:—

Registration
of certain
transactions.

"269AB. (1) The following transactions, that is to say,—

(a) every transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882, and

4 of 1882.

(b) every transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature) whereby a person acquires any rights in or with respect to any building or part of a building (whether or not including any machinery, plant, furniture, fittings or other things therein) which has been constructed or which is to be constructed (not being a transaction by way of sale, exchange or lease of such building or part of a building

16 of 1908.

which is required to be registered under the Registration Act, 1908),

shall be reduced to writing in the form of a statement by each of the parties to such transaction or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.

(2) Every statement in respect of a transaction referred to in sub-section (1) shall—

- (a) be in the prescribed form;
- (b) set forth such particulars as may be prescribed; and
- (c) be verified in the prescribed manner,

and registered with the competent authority, in such manner and within such time as may be prescribed, by each of the parties to such transaction or by any of the parties to such transaction acting on behalf of himself and on behalf of the other parties.”

4. In section 269B of the principal Act, in sub-section (2), the following *Explanation* shall be inserted at the end, namely:—

Amendment
of section
269B.

“*Explanation.*—For the purposes of this sub-section, immovable property, being rights of the nature referred to in clause (b) of sub-section (1) of section 269AB in, or with respect to, any building or part of a building which has been constructed or which is to be constructed shall be deemed to be situate at the place where the building has been constructed or is to be constructed.”

5. In section 269D of the principal Act,—

(a) in sub-section (1), in the first proviso, after the words and figures “registered under the Registration Act, 1908”, the words, figures and letters “or, as the case may be, section 269AB” shall be inserted;

16 of 1908.

(b) in sub-section (2), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—The provisions of the *Explanation* to sub-section (2) of section 269B shall apply for the purposes of this sub-section as they apply for the purposes of that sub-section.”

Amendment
of section
269D.

6. In section 269F of the principal Act, in sub-section (9),—

(a) for the words “date of the execution of the instrument of transfer”, the words, figures and letters “date of the execution of the instrument of transfer or where such property is of the nature referred to in sub-clause (ii) of clause (e) of section 269A on the date of the transfer” shall be substituted;

Amendment
of section
269F.

(b) for the words “on sale in the open market on the date of the conclusion of the agreement to sell the property”, the words “on such transfer in the open market

on the date of the conclusion of the agreement to transfer the property" shall be substituted.

Amendment
of section
269I.

7. In section 269I of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (4) or any other law or any instrument or any agreement for the time being in force, where an order for acquisition of any immovable property, being rights of the nature referred to in clause (b) of sub-section (1) of section 269AB, in or with respect to any building or part of a building which has been constructed or which is to be constructed, has become final, then, such order shall, by its own force, have the effect of—

(a) vesting such rights in the Central Government, and

(b) placing the Central Government in the same position in relation to such rights as the person in whom such rights would have continued to vest if such order had not become final,

and the competent authority may issue such directions as he may deem fit to any person concerned for taking the necessary steps for compliance with the provisions of clauses (a) and (b).

(6) In the case of any immovable property, being rights of the nature referred to in clause (b) of sub-section (1) of section 269AB, in or with respect to any building or part of a building, the provisions of sub-sections (1), (2) and (3) shall have effect as if the references to immovable property therein were a reference to such building or, as the case may be, part of such building."

Amend-
ment of
section
269J.

8. In section 269J of the principal Act, in sub-section (1), the following proviso shall be inserted at the end, namely:—

"Provided that in a case where, under the agreement between the parties concerned, the whole or any part of the consideration for the transfer of such immovable property is payable on any date or dates falling after the date on which such property is acquired, the compensation payable by the Central Government shall be the aggregate of the following amounts, namely:—

(i) an amount equal to fifteen per cent. of the apparent consideration;

(ii) the amount, if any, that has become payable in accordance with such agreement on or before the date on which such property is acquired under this Chapter; and

(iii) the amount payable after the date on which such property is acquired under this Chapter."

9. In section 269K of the principal Act, in sub-section (1), in the proviso, for the words "Provided that", the following shall be substituted, namely:—

Amend-
ment of
section
269K.

"Provided that in a case falling under the proviso to sub-section (1) of section 269J, the amounts referred to in clause (i) and clause (ii) of that proviso shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under section 269I, and the amount referred to in clause (iii) of the said proviso shall be tendered on the date on which it would be payable in accordance with the agreement between the parties concerned, and where such amount is payable in instalments on different dates, then in such instalments on those dates:

Provided further that".

10. After section 276A of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
276AA.

"276AA. Whoever, without reasonable cause or excuse, fails to comply with the provisions of section 269AB or with any direction issued under sub-section (5) of section 269I shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine:

Failure
to comply
with the
provisions
of section
269AB or
section
269I.

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