

THE INCOME-TAX (SECOND AMENDMENT) ACT, 1998

No. 11 of 1999

[8th January, 1999.]

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

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

1. (1) This Act may be called the Income-tax (Second Amendment) Act, 1998.

Short title and
commence-
ment.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1999.

43 of 1961.

2. In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), in clause (23G), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Amendment of
section 10.

“Explanation 2.—For the removal of doubts, it is hereby declared that any income by way of dividends, interest or long term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made before the 1st day of June, 1998 by way of shares or long term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility shall not be included and the provisions of this clause as it stood immediately before its amendment by the Finance (No. 2) Act, 1998 shall apply to such income.”

21 of 1998.

3. In section 10A of the Income-tax Act,—

(a) in sub-section (3),—

(i) for the word “five”, the word “ten” shall be substituted;

(ii) the words “falling within a period of eight years” and “specified by the assessee at his option” shall be omitted;

(iii) the proviso shall be omitted;

(b) in the *Explanation* below sub-section (8), for clause (ii), the following clause shall be substituted, namely,—

“(ii) “relevant assessment years” means the ten consecutive assessment years referred to in sub-section (3);”.

Amendment of
section 10A.

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

(a) in sub-section (3),—

(i) for the word “five”, the word “ten” shall be substituted;

(ii) the words “falling within a period of eight years” and “specified by the assessee at his option” shall be omitted;

(iii) the proviso shall be omitted;

(b) In the *Explanation* below sub-section (7) for clause (ii), the following clause

Amendment of
section 10B.

(b) In the *Explanation* below sub-section (7) for clause (ii), the following clause shall be substituted, namely,—

'(ii) "relevant assessment years" means the ten consecutive assessment years referred to in sub-section (3);'

Amendment of section 32.

5. In section 32 of the Income-tax Act, in sub-section (1), in clause (ii), after the second proviso, the following shall be inserted, namely:—

'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.

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.

Amendment of section 44AD.

6. In section 44AD of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997, namely:—

"(5) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-section (1), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143."

Amendment of section 44AE.

7. In section 44AE of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997, namely:—

"(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143."

Amendment of section 80P.

8. In section 80P of the Income-tax Act, in sub-section (2), in clause (a), for sub-clause (iii), the following sub-clause shall be substituted, and shall be deemed to have been substituted with effect from the 1st day of April, 1968, namely:—

"(iii) the marketing of agricultural produce grown by its members, or".