

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not to be included in total income.

Item (A) of sub-clause (e) of the said clause seeks to amend sub-clause (iv) of clause (23C) of the said section so as to provide that any income received by any person on behalf of any other fund or institution established for charitable purposes which may be approved by the prescribed authority shall not be included in total income.

Item (B) of the said sub-clause (e) seeks to amend sub-clause (v) of the said clause (23C) so as to provide that any income received by any person on behalf of any trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes which may be approved by the prescribed authority shall not be included in total income.

It is proposed to empower the Board to prescribe the authority for the purposes of the said sub-clauses.

Clause 13 of the Bill seeks to substitute sub-section (3) of section 40A of the Income-tax Act which relates to expenses or payments not deductible in certain circumstances.

The proviso to the new sub section (3) provides that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under this sub-section where any payment in a sum exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft in such cases and under such circumstances as may be prescribed.

It is proposed to empower the Board to prescribe by rules the cases and the circumstances under which disallowance may not be made or the payment may not be deemed to be the profits and gains of business or profession.

Clause 22 of the Bill seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Item (C) of sub-clause (iii) of clause 22 seeks to insert a new clause (vi) in sub-section (4) of section 80-IA so as to provide conditions to be fulfilled by an undertaking carrying on the business of laying and operating a cross-country natural gas distribution network for claiming deduction under the said section. Sub-clause (b) of the proposed clause (vi) lays down a condition that the undertaking approved by the Petroleum and Natural Gas Regulatory Board and notified by the Central Government is eligible for claiming such deductions.

Sub-clause (e) of the proposed clause (vi) provides that the undertaking should also fulfil any other condition that may be prescribed by the Board for claiming deductions under the said section.

It is proposed to empower the Board to provide by rules additional conditions to be fulfilled by the undertaking for the purposes of claiming deductions under the said section.

Clause 24 of the Bill seeks to insert a new section 80-ID in the

Income-tax Act to provide for deduction in respect of profits and gains from business of hotels and convention centres in specified area.

Clause (iv) of sub-section (3) of the said section provides that the assessee shall furnish along with the return of income audit report in such form and containing such particulars as may be prescribed.

It is proposed to empower the Board to prescribe by rules the form and particulars of audit report for the purposes of the said section.

Clause 31 of the Bill seeks to amend section 115WC of the Income-tax Act which relates to valuation of fringe benefits. It is proposed to insert a new clause (ba) in sub-section (1) of the said section so as to provide that the valuation of the specified security or sweat equity shares is its fair market value as reduced by actual payment by or recovery from the employee. The explanation to the said clause defines the term "fair market value" to mean the value determined in accordance with the method as may be prescribed.

It is proposed to empower the Board to prescribe by rules the method for determining the fair market value.

Clause 36 of the Bill seeks to insert two new sections 139C and 139D in the Income-tax Act. Section 139C seeks to empower the Board to make rules for dispensing with furnishing of documents, etc., along with return. Section 139D seeks to empower the Board to make rules for the purposes of filing return in electronic form.

Clause 37 of the Bill seeks to amend section 142 of the Income-tax Act relating to inquiry before assessment.

Sub-clause (b) of clause 37 of the Bill seeks to insert a proviso in sub-section (2D) of the said section so as to provide that the expenses of any special audit directed by the Assessing Officer shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed.

It is proposed to empower the Board to make rules to provide guidelines for the purposes of determining such expenses.

Clause 86 of the Bill seeks to substitute section 14 of the Customs Act relating to valuation of goods for purposes of assessment.

Sub-section (1) of the proposed section empowers the Central Government to determine by rules the transaction value of the imported goods and export goods. Sub-section (3) of proposed section also empowers the Central Government to determine by rules, the value of such goods where there is no sale of imported goods or export goods or where the transaction value of the goods is not determinable.

Clause 103 of the Bill seeks to substitute sub-section (1) of section 135 of the Customs Act relating to penalty for evasion of duty, etc.

The proposed sub-section (1), *inter alia*, empowers the Central Government to specify by notification categories of prohibited goods, offence relating to which shall be punishable.

Clause 125 of the Bill seeks to amend Chapter V of the Finance Act, 1994, relating to service tax.

Sub-clause (C) of the said clause seeks to amend sub-section (1) of section 70 of the said Act relating to furnishing of returns.

The proposed sub-section (1) of the said section additionally empowers the Central Government to prescribe amount of late fee not exceeding two thousand rupees, to be paid by an assessee, if there is a delay in furnishing return.

Sub-clause (G) of the said clause seeks to insert a new sub-section (1D) in section 95 of the said Act relating to removal of difficulties.

The proposed sub-section empowers the Central Government to issue order for removal of any difficulty which may arise in implementing, classifying or assessing the value of any taxable

service incorporated by the proposed legislation. The proviso to the said sub-section seeks to provide that any such order shall not be made beyond a period of one year from the date of the assent to the Bill.

Clauses 8, 12, 92 and 111 also empower the Central Government to make rules for certain matters. Delegation of the powers has already been provided under the existing respective provisions proposed to be substituted with new provisions by the said clauses.

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

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