

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to amend *Explanation 4* to clause (19AA) of section 2 of the Income-tax Act relating to definitions.

Clause (19AA) defines “demerger”. *Explanation 4* clarifies that the splitting up or reconstruction of any authority or body constituted or established under a Central, State or Provincial Act or a local authority or a public sector company into separate authorities or bodies, as the case may be, shall be deemed to be a demerger if such splitting or reconstruction fulfils the conditions specified in sub-clauses (i) to (vii) of clause (19AA). Instead of the said conditions, the proposed amendment seeks to empower the Central Government to notify the conditions in the Official Gazette.

Clause 5 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Sub-clause (b) seeks to amend clause (15) relating to exclusion of income by way of interest, premium on redemption of certain securities, bonds, annuity certificates, savings certificates, etc. It is proposed to amend clause (15) so as to include a new sub-clause (vii) relating to interest on bonds in that clause. These bonds shall be bonds issued by a local authority. Item (b) of new sub-clause (vii) proposed to be inserted in clause (15) empowers the Central Government to specify, by notification in the Official Gazette, as to the bonds, the interest in respect of which shall become eligible to be excluded from the total income.

Sub-clause (c) seeks to insert a new clause (23EA) so as to exclude income of an Investor Protection Fund set up by recognised stock exchanges in India from the total income. This clause empowers the Central Government to specify, by notification in the Official Gazette, any Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately, for the purposes of that clause.

Sub-clause (e) seeks to insert a new clause (23FB) so as to exclude income of a venture capital company or venture capital fund registered with the Securities and Exchange Board of India from the total income. Clauses (a) and (b) of the *Explanation* to clause (23FB) define “venture capital company” and “venture capital fund” respectively. It is proposed to empower the Securities and Exchange Board of India to specify, by notification in the Official Gazette, with the approval of the Central Government, the conditions for a venture capital company or a venture capital fund for the purposes of those clauses. Clause (c) of the *Explanation* to clause (23FB) defines “venture capital undertaking”. It is proposed to empower the Securities and Exchange Board of India to specify, by notification in the Official Gazette, with the approval of the Central Government, the list of activities or sectors that a venture capital undertaking may not engage in, for the purpose of clause (23FB).

Clause 20 of the Bill seeks to substitute clause (v) in the *Explanation* to section 48 relating to mode of computation so as to define the expression “Cost Inflation Index”. The proposed clause (v) empowers the Central Government to specify, by notification in the Official Gazette, the “Cost Inflation Index” for any previous year as per the provisions of the said clause.

Clause 49 of the Bill seeks to insert a new section 115JB relating to special provisions for payment of tax by certain companies in the Income-tax Act. Sub-section (4) of the new section 115JB empowers the Central Board of Direct Taxes to prescribe, by rules, the form in which every company to which the said section applies shall furnish a report of the accountant.

Clause 52 of the Bill seeks to amend section 115R relating to tax on distributed income to unit holders so as to insert a new sub-section (3A). The proposed new sub-section empowers the Central

Board of Direct Taxes to prescribe, by rules, the income-tax authorities before whom, the form and the manner in which the statement shall be furnished and the details which may be given in the said statement by the person responsible for making payment of income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be.

Clause 54 of the Bill seeks to insert a new Chapter XII-F relating to special provisions relating to tax on income distributed by venture capital companies and venture capital funds in the Income-tax Act. The new section 115U relating to tax on distributed income to investors is proposed to be inserted. The said new section empowers the Central Board of Direct Taxes to prescribe, by rules, the income-tax authority before whom, the form and the manner in which, the statement shall be furnished and details which may be given in the said statement by the person responsible for making payment of the income distributed by the venture capital company or venture capital fund, as the case may be.

Clause 55 of the Bill seeks to insert a new sub-section (1A) in section 139A of the Income-tax Act relating to permanent account number. The proposed new sub-section (1A) empowers the Central Government to specify, by notification in the Official Gazette, any class or classes of persons by whom tax is payable under the Income-tax Act or any tax or duty payable under any other law for the time being in force. This section also empowers the Central Government to specify the time within which such application shall be made to the Assessing Officer for the allotment of a permanent account number.

Clause 59 of the Bill seeks to amend section 245N of the Income-tax Act relating to definitions in relation to advance ruling. Clause (b) of that section defines the expression “applicant”. This clause, *inter alia*, empowers the Central Government to specify, by notification in the Official Gazette, as to the class or category of persons who are residents falling within the purview of the expression “applicant”.

Clause 74 of the Bill seeks to amend section 27A of the Customs Act. The amendment proposed by this clause confers powers upon the Central Government to fix rate of interest on delayed refunds, by notification in the Official Gazette.

Clause 76 of the Bill seeks to amend section 28AA of the Customs Act. The amendment proposed by this clause confers powers upon the Central Government to fix rate of interest on delayed payment of duty, by notification in the Official Gazette.

Clause 77 of the Bill seeks to amend section 28AB of the Customs Act. The amendment proposed by this clause confers powers upon the Central Government to fix the rate of interest on delayed payment of duty in special cases, by notification in the Official Gazette.

Clause 79 of the Bill seeks to amend sub-section (2) of section 47 of the Customs Act. The amendment proposed by this clause confers powers upon the Central Government to fix the rate of interest on delayed payment of duty where clearance of goods is for home consumption, by notification in the Official Gazette.

Clause 80 of the Bill seeks to amend sub-clause (ii) of clause (b) of sub-section (1) of section 59 of the Customs Act. The amendment proposed by this clause confers powers upon the Central Government to fix the rate of interest on rent and charges as specified in that sub-clause, by notification in the Official Gazette.

Clause 85 of the Bill seeks to amend the Customs Tariff Act. Sub-clause (b) of this clause proposes to insert a new section 9AA in the Customs Tariff Act. Sub-section (2) of the proposed section 9AA confers powers upon the Central Government to make

rules, by notification in the Official Gazette, to provide for the manner in which and the time within which the importer may make application for the purpose of sub-section (1) of that section and to authorise the officers of the Central Government to dispose of such application on behalf of the Central Government and to provide the manner in which the excess duty refundable shall be determined and refunded. This proposed sub-section also authorises the Central Government to specify, by rules, the time limit within which such application shall be disposed of.

Clause 89 of the Bill seeks to amend section 3A of the Central Excise Act. Sub-clause (a) of that clause proposes to substitute sub-section (2) of that section by a new sub-section (2). The proposed new sub-section (2) confers powers upon the Central Government to make rules, *inter alia*, to provide the manner for determination of annual capacity of production of factory, to specify the factor relevant to the production of such goods and the quantity that is deemed to be produced by use of a unit of such factor and also to provide for determination of the annual capacity of production of the factory. Sub-clause (b) proposes to amend sub-section (3) of the said section to confer powers upon the Central Government to specify rates to levy tax under that sub-section, by notification in the Official Gazette.

Clause 90 of the Bill proposes to substitute a section 4 for existing section 4 of the Central Excise Act. Clause (b) of sub-section (1) of the proposed new section confers powers upon the Central Government to prescribe, by rules, the manner by which the value of the goods shall be determined in the case specified in that clause. The proposed amendment by this clause shall come

into force on the date to be notified by the Central Government in the Official Gazette.

Clause 94 of the Bill seeks to amend sections 11AA of the Central Excise Act. The amendment proposed by this clause confers powers upon the Central Government to fix the rate of interest on delayed payment of duty, by notification in the Official Gazette.

Clause 95 of the Bill seeks to amend sub-section (1) of section 11AB of the Central Excise Act. The amendment proposed by this clause confers powers upon the Central Government to fix the rate of interest on delayed payment of duty in special circumstances, by notification in the Official Gazette.

Clause 98 of the Bill seeks to amend section 11BB of the Central Excise Act. The amendment proposed by this clause confers powers upon the Central Government to fix the rate of interest on delayed refunds, by notification in the Official Gazette.

Clause 111 of the Bill seeks to confer powers upon the Central Government to appoint the date, by notification in the Official Gazette, with effect from which the amendments proposed under that clause shall come into force.

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 them in the Bill itself.

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