

**Income -Tax Bill, 2025 : An Insight into the Income -Tax Bill, 2025.
Date 25-4-2025 (Friday) - Senior Advocate Saurabh Soparkar,
Gujarat High Court.**

**Subject : Taxation of Profits and gains of business or profession,
Method of Accounting and Concept of book profit (Chapter IV - Part
D Clauses 26 to 66, Chapter XVI Part A Clause 276 to 278 and
Chapter XIII Part D Clause 206)**

Speaker : Senior Advocate Saurabh Soparkar, Gujarat High Court.

Summary of the speech prepared by CA. Rajesh Mehta, former Secretary General AIFTP and CA. Apurva Mehta from Online lecture of Respected Mr. Saurabh Soparkar, Senior Advocate, Gujarat High Court.

Mr. Samir Jani National President of the All India Federation of Tax Practitioners (AIFTP), welcomed the **Sr. Advocate Mr. Saurabh Soparkar** and all participants on zoom and Youtube.

Mr. Samir Jani expressed thanks to the Past Presidents present in this virtual meeting, he expressed thanks and gratitude for humble support for this online lecture series by respected **Sr. Advocate Dr. K. Shivaram** sir and Chairman Direct Tax Committee **Sr. Advocate Tushar Hemani**.

Introduction of speaker by Sr. Adv. Tushar Hemani :- Sr. Adv. Saurabh Soparkar is one of the most prominent figure in the field appearing before almost all the forums and enlightening all of us all throughout his journey. He is a Senior advocate by designation by Gujarat High Court . He is qualified chartered accountant, He is a rank holder in his academic

career all throughout B. COM., LLB. Chartered Accountancy both intermediate as well as final examination, he was an all-India rank holder.

He has been associated with large number of charitable activities. He is on the board of governors of CEPT University, one of the leading universities for architectural studies Ahmedabad, University Ahmedabad Education Society. He was a visiting faculty in IIM for 22 years. President and Vice President of various Bar association including Income Tax Appellate Tribunal Bar association Ahmedabad . He has contributed immensely in various seminars, various journals, topics. In October 2024 he was conferred a designation of **Doctorate by Karnavati University** for his contribution in the field of taxation.

He was an Senior Income Tax counsel, for the Income tax Department, during that brief stint sometime in ' 86 and ' 89 he had an occasion to oppose none other than **Shri Nani A. Palkhivala Senior Advocate,** Bombay High Court.

The two things which one must learn from him is, the first thing is that he is completely dispassionate about the matters. He never gets associated with any matter despite winning best of the matters, he would never come out of the courtroom Jubilant or despite losing best of the matters, he would not never come out of courtroom dejected, he would say that matter is won matter is lost and now what next. His best quality is the **time management**. If you really want to learn how to within 8 hours if you want to squeeze the maximum professional work you must learn it from him.

Subject : Taxation of Profits and gains of business or profession, Method of Accounting and Concept of book profit (Chapter IV - Part D Clauses 26 to 66, Chapter XVI Part A Clause 276 to 278 and Chapter XIII Part D Clause 206)

Speaker Sr. Adv. Saurabh Soparkar, Gujarat, High Court .

1. Overview of Income - Tax Bill, 2025

The first issue of Income- Tax Bill 2025. We had our present Act enacted in the year 1961-62. That Act has lived for more than six decades.

India has progressed significantly in this last six decades and from a poor developing country, it has now become a major world economy. Every fiscal bill or every fiscal legislation must address the needs of the day and ensure that there it helps as a tool to developed economy, business and the way in which business is being done.

Therefore, when we found that the old Act has outlived and we are looking at the New Bill, obviously New Bill has to be consumer sensitive or assessee sensitive. It has to be simple. It has to make sense. It has to ensure that complexity in drafting and complexity in interpretation they are all removed. But that is a cleaning operation.

What we need to do or what we are required to do was to think out of box to find out innovative measures for the purpose of ensuring that the Income -Tax Act becomes a tool for growth and development. Income -Tax Act gives the ways and means by which people can do business, people can progress, economy can progress and effectively country can progress. What's the position?

2. Whether there is any change in the Income -Tax Act, 1961 vs Income -Tax Bill, 2025

The Bill or the documents attached to the Bill including the explanatory notes etc. have repeatedly said that there is no change in the policy.

There were 819 sections which are being reduced to 586 sections. 5,12,000 words have been reduced to 2,60,000 words. 47 chapters are scaled down to 23 chapters. All this yes, is there any substantive change? Answer is no. Somebody must have given an interesting message to the north block that

the word explanation and the word proviso are not something which a finance document should contain. I don't know why. So every explanation from the Income -tax Act is being eliminated. 900 explanations have gone. Income -tax Act 1961 has 1,200 provisos. Each of the proviso has gone away. Now there is not a single proviso. So what do you do? Every explanation becomes a subsection. Every proviso becomes a subsection. So it's not as if the contents of an explanation or proviso have been taken away. They can't, because they are part of the Act. But they have been now put under a different format.

3. Cosmetic Legal Changes : What benefit ?

The word Notwithstanding has been replaced by the word Irrespective of. We had 252 **Notwithstanding** in the 1961 Act and now we have **Irrespective** of 199. The concept of previous year has been shifted to tax year. These are all cosmetic changes. These are all changes which in a way just makes a change. Does it really bring about a benefit? I would say no. Why? With every change you need to now compare old language and the new language. What is the change? Whether the change has any purpose? If yes, what is the purpose? If no, why is it being made?

When I go to clause by clause discussion, you will immediately find why do I say that all these changes will lead to more often than not an endless exercise of waste of time and energy. I had heard Mr. Datar for some time. I fully agree old law whether or not it would continue to operate would be another major area of challenge. I would believe I'm not as pessimist as he is. I would believe that old law where the language is the same would certainly be adopted.

4. Recasting Legal Provisions: A Shift in Form That Clouds Interpretation.

With tweaking of language here and there, 'a' being converted to 'b', the explanation being changed into a subsection, proviso being changed into

subsection, whether the old judgments will still continue to hold the field or not would be a matter of some concern. Why do I say that?

It's well settled that an explanation has no independent existence. It explains the parent provision. A proviso is an exception to the parent provision. Therefore, if there's a conflict between an explanation and the main provision, main provision will override. A proviso is meant to be an exception. Therefore, when you're dealing with main section and the proviso, you need to find out what main provision says, and then look at the proviso. You will have to fine-tune your interpretation of both an explanation and proviso depending upon how they are placed in relation to the main provision. I'm conscious that there are some provisions where the overdose of explanations and provisos have made the life extremely miserable.

Look at section 10(23C). Proviso after proviso, proviso after proviso. By the time you reach the last proviso, you have to again start counting how many provisos have been covered more than 25 or explanation with proviso, proviso with explanation, explanation with proviso. They were complicated. But now that the proviso and explanation are put at par with the main subsection, we will have another approach to interpret and probably some time and energy would be wasted or invested into again finding out as to whether with the change in the format of the law. Whereas in principle there is no change. Would there be in fact any change or not ?

5. Streamlining Chapter IV-D: Structural Simplification for Better Coherence.

Overall view of the chapter IV-D income from business or profession. We had 65 sections now being brought down to 41 sections. We had 50,000 words in that chapter now being brought down to around 25,000 words. To great extent the reduction in the number of words is because of two things. One, some of the sections have been clubbed together and sections which can be put together and then given a common dose have been put together

and they have been dealt in one particular section. Some of the redundant provisions have been taken out. Some of the detailed provisions have been shifted from the section to the schedule and therefore to that extent there is also reduction in the size of the chapter though one may have to look at the schedules also side by side.

The Revenue says that the changes are brought about to improve the coherence, create logical links and for smoother progression. Does it improve coherence to some extent? Yes. I would be wrong if I go on negatively casting this Bill as a very peculiar piece of legislation.

We had under the present Act sections where you will not find a full stop on one full page. It'll be comma, semicolon, again comma, semicolon and the sentence would not be over for more than a page.

Now what they have done is a long sentence is broken up into parts. I have to go to Bombay then I will go to Kolkata then I will go to Indore then I will go to Delhi one sentence. Now one subsection says I will go to Bombay, then next subsection Delhi, next section Kolkata, so a one sentence is broken up into parts to some extent it makes easier to read smoother progression logical link.

6. Superficial Drafting Tweaks in Clause 26 Risk Creating Deeper Tax Ambiguities.

Section 28 as per present Act. Present Act says (section 28) following income shall be under tax under the head profits and gains of business. And as per new bill section 26 (It's a clause but I will refer to as section because it's much easier to refer to a section. I'm conscious so long as Bill is not made into an Act).

I may use section and clause interchangeably. Clause or section 26 proposes to bring in one heading. The subsection one is an insertion to be found which is so to say introduction. Now what you will find because and

this is a little hilarious because change has to be made whether it is necessary or not.

You will find wherever Roman i, ii, iii, iiii not over and not only in this section in subsequent provision whenever you have got Roman i, ii, iii, iv, they have chained to A, B, C, D, E wherever there's A, B, C, D, E they have chained to 1, 2, 3, 4, 5 wherever there is 1 2 3 4 5 or Roman they have brought in numerical 1, 2, 3, 4, 5 or wherever there's a numerical 1, 2, 3, 4, 5 they have gone to either A, B, C, D, E or Roman i, ii, iii, iv, v. Yes, there is a change. But why do you need to make this change? You could have lived with clause 1, 2. Now you have got A and B. Otherwise, it's the same thing.

Language of section 28 is replicated in clause 26 effectively. But i, ii, iii, iv, have become A, B, C, D. But please see this change and which is again a slightly problematic change.

Today we are aware under section 28(v) interest, salary, bonus, commission or remuneration by whatever name called due to or received by a partner of a firm from such firm is taxable. Proviso says that, where the same is not allowed as a deduction in the hand of the firm, let us say remuneration paid to a partner is Rs. 20 lakh but admissible considering the profit is Rs. 12 lakh, 8 lakh will not be allowed in the hand of the firm. Then by virtue of proviso to clause 'v' of section 28, Rs. 8 lakh will not be taxable. But the language used is income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted. So Rs. 20 lakh will be compressed to or reduced to Rs. 12 lakh. The Bill seeks to achieve the same thing but look at the language and possible complication and amount being interest, salary, bonus, commission or revenue or whatever name called which is due to a received by partner of firm from such firm to the extent allowed under Chapter IV-D, as a deduction in computing income of the firm. Good enough. What about the balance?

Unless you make a special provision elsewhere that the difference is not taxable. Some Assessing Officer for no rhyme or reason might take a view after Rs. 20 lakh 12 lakh will be taxable as business income but 8 lakh is not exempt and might tax you under income from other sources. See under the old provision this was required to be adjusted meaning thereby you don't take 20 you only take 12. Now you are not required to adjust. You are only required to find out to the extent allowed. I'm not saying that this is the correct interpretation. I'm not saying legislature ever wanted to tax the balance of Rs. 8 Lakh. But the change in the language is likely to create an unwarranted and unnecessary complication.

This is what I was trying to say at the beginning because there is enthusiastic thought to bring about a change or to reduce the size of the provisions or to reduce the number of words used here. Number of words used are income under the clause shall be adjusted here to the extent. Fine you have saved about 10 words but by saving 10 words you have open a Pandora's box for no rhyme or reason assessee might be called upon to fight on this issue unless CBDT comes up with clarification that what we mean is out of Rs. 20 lakh Rs. 12 lakh would be taxed here Rs. 8 lakh is not supposed to be taxed. This is the change, which I thought, I must discuss otherwise all clauses of section 28 are almost if not verbatim because they are not verbatim reproduced because verbatim reproduction is not to be done under this Bill. They have been in substance taken over under clause 26.

7. Reorganizing Section 36: Thematic Segmentation for Clarity in Deductions.

Section 29 has now become clause 27 and there is no change fortunately. Section 36 General deduction. Now what has happened is section 36 of existing Act is a long section. If you'll find clauses 1, 2, it's a long section. So what they have done is they have broken up section 36 into three

sections. One section 29 or clause 29 which deals with deduction related to employee welfare.

Therefore to the extent section 36 deductions referred to employee welfare they have been put up under clause 29. Then there were certain deductions under section 36 dealing with insurance premium. All of them have been clubbed together and put under a new clause 30.

8. Section 36 Recast: Functional Reclassification with Cosmetic Yet Notable Refinements.

The Bad Debts : which has been a matter of some great debate, we had section 36(1)(vii) read with section 36(2) read with section 36(1)(viia). Now all those provisions have been put under a new clause 31 in a simple way. Clause 29 Employee welfare, clause 30 insurance premium, clause 31 bad debt.

There is another method of this Bill. They have introduced tables and therefore various similar provisions are put under one clause with different boxes of the table. Section 36(1)(via) scheduled bank now becomes item one of this table. regular assessee will become subsection 2 bad debt or any part thereof and other clauses like 36(ii) are now put under section 36(iii) but there is one change I find this clause has been introduced which is a good thing let's say I claim I have a debt of Rs. 10 lakh lakh, I claim bad debt of Rs. 7 lakh which is allowed to me in year 1, I believe Rs. 3 lakh is still recoverable therefore I don't write off Rs. 3 Lakh, 2 years down the road I am not able to receive rupees three lakh or I receive only rupees 2 lakh out of one lakh then this clause provides if the amount ultimately recovered on any such debt in my example rupees two lakh is less than the difference between the debt 10 lakh and the amount deducted 7 lakh that is three lakh, the deficiency shall be deductible in the year in which the ultimate recovery is made so in a later year I am able to recover Rs. 2 lakh and that's an ultimate recovery the balance of Rs. 1 lakh would be allowed

to me in that particular year I have highlighted the issue of interest. Old provision says If you pay interest in respect of capital borrowed for the purpose of business, it is allowable 36(1)(iii) which has now become part of clause 32 which is residuary deductions.

Clauses, 29, 30, 31 specifics, 32 becomes residuary of which interest is one, interest paid in respect of capital borrowed for the purpose of business or profession where interest shall not include interest on capital borrowed for asset. It is the same thing no change effectively though there is a slight change in the language. Section 36 broken up into four parts 29, 30, 31, and 32.

This is one change which is cosmetic change but of a significant nature. You will also find that under the old law there were various explanations which contain definitions. All definitions have been lifted from the respective sections and put under the last section under this head.

9. Redrafted Definitions and Disallowances: Structural Tweaks with Minimal Substantive Change.

We had a definition section 43. 43(1) dealing with actual cost. 43(6) dealing with WDV. 43(2) dealing with 'paid'. But not many definitions were there. Now we have far more number of definitions but they are all lifted from respective sections and put under a residuary clause. Now depreciation is effectively the same, no change but please see we had a six proviso which created some complication in case of merger demerger.

Whether depreciation would be admissible on the revaluation on the revalued assets like goodwill tangible or intangible assets in the hand of amalgamated or transferee or resulting company that litigation is going on at different stages. But this simplified language probably gives a better scope for the assessee to argue that in such a situation depreciation would be available.

See at the beginning of the definition of section 32 the term asset is defined and the very definition appears second time under the term in subsection 12. So section 33(1) contains definition of assets. 33(12) again contains the same thing except for tangible asset there is no change, for intangible asset in this clause, G is introduced. this is one change that probably is and the definition has probably been put twice over for no rhyme or reason.

See old section you will find there was a section to investment allowance or development rebate 32A, 33. All that has also gone away because the section itself is not there at 34 etc. they are not there. Now existing section 40 (the expenses or deductions not allowable). Language old "notwithstanding anything" here it is "irrespective". I wonder what was the problem in continuing with the phrase notwithstanding, anything.

In fact they would have saved one word or maybe they are trying to say one word not anything by putting irrespective, because see you are required to say, "irrespective of any other". So one word here or there but otherwise section 40 is replicated in section 35, foreign taxes, tax expenditure, where you have failed to deduct tax at source, consideration paid to non-residents without payment of taxes, wealth tax.

Now obviously there's no wealth tax but all this has been continued exactly in the same manner in which you had earlier made a provision. The amount paid by partnership firm to the partner is captured here under clause F, it is the same salary bonus commission remuneration whatever name called who is not a working partner therefore you pay it to working partner and in relation to working partner same condition it has to be prescribed by the partnership date authorized total amount shall not exceed a fiscal limit, interest at 12% so on and so forth there is no change. section 40A again disallowance section is brought by section 36 and just see section 30, 40A(2) had the list of persons who are having certain relationship so as to attract disallowance provision. Now what they have done is they have put in this by way of a table.

So whereas you had columns here now you have table individual such and such company, such and such firm, such and such AOP so and so firm so and so. So effectively the same provision captured in a different language.

10. Clause 37: Consolidation and Rewording of 43B Without Substantive Policy Shift.

Section. 43B becomes clause 37. Again same thing 43B said, "Notwithstanding anything contained in any other provision of the Act", deduction will be allowed in respect of certain payments only in the year in which payment is made. So now they have put in these two conditions irrespective of content, act, irrespective of method of accounting, irrespective when it is incurred, only in the year in which the payment is made.

One change we had payment of interest in relation to certain institutions not to be allowed. Those institutions were public banks. First of all, public financial institution, state financial corporation, state industrial investment corporation or notified public non-banking finance companies or banks, cooperative banks other than primary etc. What I now find is specified financial entities are now public finance institution, SFC's, SIC's, notified class of non-banking financial companies, schedule bank or cooperative bank.

In other words, the different clauses D, E, F are clubbed together. they were D E F because they were introduced in section 43B at different points of time stage by stage. So now they are put under subsection 7 under one head and that is the reason why and all those explanations have been captured in the main provision and that's why the length of the section has gone down.

We have the definition of the term actual cost 43(1) part of the definition section. Revenue found that to put the term actual cost in the definition section may not be conducive because this is a complex definition requires lot of explanations. explanation not in the term of the explanation below the section but it requires lot of explaining and therefore instead of putting it as a definition clause let's put it under a separate section.

11. Clause 39: Repackaging of 'Actual Cost' Provisions with Tabular Clarity but No Substantive Change.

Clause 39 which defines what an actual cost is. If you look at the language there may be change in the language but if you look at the substance it is the same. Actual cost means actual cost of the asset to the assessee reduced by the portion or the cost thereof met directly or indirectly, actual cost same thing, as reduced by part of cost, taxes, levies, subsidies, amount in excess of Rs 10,000 paid in cash not to be allowed, subsidies if they are asset specific to be reduced, if not, they are to be reduced by this formula:- $A = A * B/C$ total subsidy to be prorated between the asset acquired upon total asset.

Then all of us are aware there are various provision under which if an asset is transferred from A to B because of tax neutral transaction the cost continues to remain the same. So in view of this all those tax neutral transactions are captured under this table 1, 2, 3, 4, etc. and this goes on and every transaction is captured here.

Again same provision all those explanations are now brought over here as and by way of the table and the power of the assessing officer to disturb the cost when he finds it is being inflated for the purpose of getting higher depreciation is retained to be done by joint commissioner so on and so forth. Now look at section 43C. It captures two provision where an asset, a stock in trade is transferred under a scheme of amalgamation and two where stock in trade is transferred pursuant to total or partial partition of

HUF or a gift or will or trust. Now language of both subsection is the same, effect is also the same. So what is done is, clause subsection one is put under clause A, sub-section two is put under clause B, and then one section is made.

Now nothing to do with the amendment but then when this provision was made the gift was not taxable and therefore if I receive an asset which is not taxable then my cost will be cost of the earlier person now that gift is taxable in most of the cases maybe this requires re-examination but then as I said no attempt is made to bring about any change, much less, significant change.

Therefore, you will find almost copy pasted different language, the old provision and therefore whatever are the deficiencies will still continue to be there. I said about actual cost.

12. Clause 41 & Section 43: Mathematical Structuring of WDV and Forex Provisions Without Substantive Change.

Similarly for written down value, we have only a definition section right now 43(6). So that is inadequate. Now we have therefore got a new clause 41 which is effectively 43(6).

If you acquire asset during the year, actual cost to the assessee, cost of earlier asset, actual cost minus depreciation.

In case of block of assets = $[(A - D) + B - C] - E$.

A= Written down value of the opening block.

B=Assets added to the block during the tax year,

C= Amount realized on transfer of asset from the block, C shall not exceed $(A-D)+B$,

D= Depreciation allowed from the block.

E= in case of a slump sale actual cost of the asset falling within that block as reduced by depreciation allowable from tax year 88-89 onwards, as if

the asset was the only asset in the relevant block of asset which shall not exceed $[(A-D)+B-C]$.

So what was captured earlier is now sought to be captured by this formula. I find legislature is using number of time this arithmetical formula to explain what it seeks to do.

Similarly, transfer holding to subsidiary or on demerger or merger or demerger or conversion of private company into LLP or securitization of stock exchange card or succession of a business. So these different situations are now captured in one column of the table in the next column of the table what would be the situation is being stated. So you open the act go to the relevant section find out the table go to the right box and get the answer. The reason why it is being done is because all subsequent provisions subsection 2, 3 etc. etc. they would all be common to every situation. So instead of repeating this situation below each provision, below each situation, all these provisions are being captured as a common provision below the whole table. Foreign exchange fluctuation rate taxability same thing but as you will find here there it is like an essay this is like a arithmetical formula but if you look into it, it makes no change whatsoever 43A foreign exchange fluctuation again the same thing which is now clause 43 but as I was saying just see what I'm saying row 1, 2, 3, 4 becomes a b c Now why could they not have continued 1, 2, 3, 4, I don't know but there has to be a change. So 1, 2, 3, 4, becomes A B C.

13. Impact of Simplification in Legal Charges and Amortized Expenditures on Potential Litigation.

Some other provisions. Sometimes changes without there being a meaning of change might also create complication. Earlier expense by way of legal charges for drafting of memorandum of association as a separate clause on printing of memorandum both were allowable as to be amortized expenditure.

Now it is legal charges for drafting and printing. Some officer, I wish not, I hope not, might take a view, this is conjoined to be read conjointly, it's a cumulative condition so only when you get drafting and printing done at one time you will get the deduction earlier it was disjointed now it is conjoin completely redundant and completely absurd interpretation but then these kinds of arguments are going to be canvassed and therefore we must be alive to the issues that we might end up with unnecessary litigation for no rhyme or reason.

Otherwise this amortized expenditure is now covered under section 44. Scientific research 35(1)(i) said, any expenditure not being a capital expenditure is allowed. 35(1)(iv) said, any expenditure of a capital nature is allowed. So between clause (i), and clause (iv), we had clause (ii), (ia) and (iii). So now they have brought in simplicity.

New clause 45(1) : Deduction shall be allowed for an expenditure being in the nature of :-

'a' capital expenditure which is equal to 35(1)(iv),

'b' revenue expenditure which is equal to 35(1)(i),

'c':- both incurred on scientific research related to the business of assessee, subject to the provision of this section,

Now I'm not sure why is this 'both' used because if capital is captured, revenue is captured. Why do you say 'both'? Unless you are saying part capital, part revenue, out of Rs. 3 Cr., Rs. 1.80 crore may be capital, Rs. 1.20 Cr. may be revenue, then you are entitled to claim the both, but that is in relation to the business of the assessee, prior three year expenditure both revenue prior three-year expenditure of a capital nature would be allowed rest are almost the same so section 35 becomes clause 45 subject to as I said tweaking of the language whereby things are being put under one particular clause.

14. Replication of Section 35AD in Clause 46 with Simplified Table Format for Eligible Businesses.

Section. 35AD:- Section 35AD is a provision under which certain businesses have been given the privilege of claiming all of the expense as a deductible expenditure. Once they claim the whole of the expenditure, the deductible expense, then they are not entitled to any other expense of a revenue nature at all and on the basis of the whole claim under 35AD assessment will be made.

This is replicated under clause 46. All conditions are the same except we had under the old provision under Sec. 35AD(5) - clause (a), (aa), (ab), (ac), (ad), (ae), (af) because they have been introduced in between (ag), (ah) etc etc.

Now we have a table eligible entity laying and operating cross country natural gas pipeline 1st April 2007 which has come from here. This clause (a) of 35AD(5) has become item one in the table. Then building and operating a hotel this clause (aa) of 35AD(5) has become item two of the table.

Effectively what is happening is all these 12 items are now put as different items in the table. Description is repeated, date is repeated. There is no change except now instead of reading sub clauses we have to read the table.

15. Consolidation of Expenditures under Section 35CCC and 35CCD into Clause 47 with Streamlined Provisions.

Section . 35CCC and 35CCD:- expenditure on agriculture extension project and expenditure on skill development project, they're clubbed into one provision, clause 47, 47(1)(a) deals with what was 35CCC. 47(1)(b) deals with what was 35CCD and because you will find, all other provisions were identical, they are dealt with a common provision. Tea development, coffee

development, rubber development long section you will find a long section is reduced in size. How have they reduced? They have reduced because they have taken the whole thing into Schedule IX. The clause 48 is brief only. Rest has gone in the schedule. But subject to that it's not as if any significant change is made or in fact no change is made in the language. Site restoration fund clause 49 is shorter in size but then it is whole thing is shifted to the schedule.

16. Modification of Section 44A to Clause 50, and Section 35E to clause 51, with Minimal Change in Language.

Section 44A provision for trade, profession or similar association. These are, like AIFTP where total income received from the member is exempt. Total expenditure spent for the members is to be deducted against that income. If there's a deficiency you can claim against your other business income, you can't carry it forward. This Sec. 44A becomes clause 50 with the only change being the word 'notwithstanding' is changed to 'irrespective' of otherwise there is no change.

Section 35E prospecting of mineral becomes clause 51.

17. Consolidation of Amortized Expenditure Provisions into Clause 52.

We have four sections today dealing with which are in the nature of amortized expenditure. An expenditure of a capital nature to be allowed over a period of years. 35ABA expenditure incurred for using the spectrum. 35ABB expenditure incurred for obtaining license. 35DD for the expenditure for the purpose in amalgamation and demerger and 35DDA expenditure for voluntary retirement scheme. All these provisions provide that expenditure incurred by an assessee would be admissible over a period of next certain years to be spread over.

Now these four sections are put in one section - clause 52, where an expenditure, of the nature specified in column B under clause 52, is

incurred during the tax year. Deduction or part should be allowed in equal instalments in each of the tax year as mentioned in column D (5 tax year). So five years beginning from the initial tax year specified in column C. So beginning from this year for so many years to this, benefit will be available. 35D, 35DDA, 35ABA, 35AB so these four sections clubbed together under clause 52.

Why are they clubbed? Forget about this. Years may be different. Here it is 5 years. Here it is according to the length of the license. According to length of the license, but all other provisions are identical. So instead of repeating this sub clause 2 and sub clause 3 and sub clause 4, 5, 6, 7 below each clause separately if they were not clubbed under one clause and they would have been put in the four clauses then this clauses 2 to 7 would have been required to be repeated under below each clause.

So what they have done is four clauses, four different sections put under one clause or one section and put all common conditions at the foot but and then individual conditions in the table.

Now here look at the drafting error in clause 53. This is Sec.43CA of existing act, now in the bill clause 53. If you transfer a stock in trade at a price below the market rate, you have to pay tax at the market rate or stamp duty. Look at the language very carefully and slowly. In case of transfer of an asset other than a capital asset being land or building or both, if the consideration received or accrued from such transfer is less than the 'stamp duty', it is bound to be less than the 'stamp duty', it has to be, "less than stamp duty value". Then such stamp duty value for computing profit and gains etc. the word 'value' should also appear over here because stamp duty is always less than stamp duty value, the 'stamp duty value', is always more than the 'stamp duty'. Even if asset of Rs. 10 Cr. is sold at Rs. 1 Cr., stamp duty will be Rs. 50 lakh or even if you put the stamp duty on Rs. 10

Cr. it will be Rs. 50 lakh. So the word value is missing but subject to that whole 43CA, up to 10% relaxation is being permitted so.

18. Clauses 55, 56, 57: Insurance Taxation and Interest on NPAs in Banking Sector.

Insurance business, Section. 44 become clause 55.

Section. 43D (New bill clause 56), has been brought in the statute book in order to ensure that banks etc do not pay tax on NPA. So because banks are required, are permitted not to charge interest on NPA. What they do is, they prepare memorandum account, charge interest there but do not offer it for tax. Supreme Court in case of **State Bank of Travancore v .CIT (1990) 186 ITR 187 (SC)** said it is taxable. Supreme Court in the case of **UCO Bank, v. CIT (1999) 104 taxman 547 / 237 ITR 889 (SC)** later on slightly modified upholding validity of CBDT circular that exclude interest from taxable income after three consecutive years of non-recovery.

Section. 43D is introduced there whereby banks etc are not required to pay tax if the income is not required to be taken to P. & L. account because of RBI guidance etc. Now in relation to this last year they had also permitted public companies where they are governed by the guideline of National Housing Bank not to offer for tax, interest on NPAs if under the guideline it is not to be taxed, for reasons which I do not know, such concession is not being repeated over here.

So again so far as companies which are governed by national housing banks are concerned even though income may not be taxed income may not have to be recognized in the books of account by virtue of the requirement of national housing bank guideline. It's possible for the revenue to argue, I'm not sure how correct it is. It's possible to defend it but Revenue is likely to

argue that because this exemption is not available, now they will have to pay tax even on the interest on NPA.

Section 43CB (New bill Clause 57)- for revenue recognition mercantile prorata etc. No change.

19. Clause 58: Consolidation of Presumptive Taxation Schemes for Businesses, Professionals, and Transporters

Section 44AD :- Computing presumptive taxation for businessman. 44ADA the presumptive taxation in relation to the professionals and 44AE presumptive taxation for those who are in the business of plying hiring and leasing of goods vehicle. Those three sections are now being merged into one section namely clause 58 of new bill.

First again like a table, first item is similar to Sec. 44AD same provision which was modified last year turnover up to Rs. 2 Cr. but or up to 3 Cr. (if not more than 5% of your turnover is not in cash). Provisions of Plying goods carriages etc. again similar to Sec. 44AE. Rate of taxation remains the same for professional 50 lakh or 75 lakh if not more than 5% of a receipt is in cash, 50% etc all things are the same but then because other requirement of these sections are not required to be repeated, subsection 3, 4, 5, 6, 7, 8, etc they will apply to all the three situations. Now all these are under only one section namely clause 58.

20. Clause 59, 61: Consolidation of Presumptive Taxation Provisions for Non-Residents.

Section. 44D:- Which is royalty etc. Clause 59 makes no change.

Section. 44C:- Head office expenditure in case of non-resident, again no change. Sec. 44B this is in relation to certain presumptive taxation for non-residents there are today five sections 44B, 44BBA, 44BB, 44BBB, 44BBC Now in the bill we have one section which captures six positions. One more position is introduced.

If you're in the business of operation of ships today it is 44B. Now under clause 61 it is item number one of the table. If you're in the operation of running cruise ships, today it is 44BBC, you come under item two. If you are in the business of operation of aircraft, 44BBA becomes item three. If you are in civil construction, erection, testing, 44BBB becomes fourth item. Providing services in relation to prospecting etc. Mineral oil 44BB becomes item five.

If you're in the business of providing services or technology in India for the purpose of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, articles or thing in India to a resident company 25% of your receipt is deemed to be the income. A presumptive taxation whether you should or should not take if your margin of profit is higher than 25% you may not take it or lower than 50% you may not take it but this is one concession which is sought to be given to you.

21. Clauses 62 to 64 and 65: Maintenance of Books and Audit – Expanded Scope for Professionals, Others Mostly Unchanged

Maintenance of books of account Sec. 44AA becomes clause 62 but this is there's a change here professionals are also required to maintain books of account, the list of professional is legal, medical, engineering, architecture, accountancy, technical consultancy, interior decoration, information technology and company secretary. So also a company secretary or a person in the field of information technology if his turnover exceeds the specified amount he will have to maintain the books of account.

Audit section. 44AB becomes clause 63, I did not find any change over here. Section. 269SU becomes clause 64, no change.

Sec. 44DB new clause 65, in the matter of computation of deduction for cooperative bank is the same with no change whatsoever.

22. Clause 66: Consolidated Definition Section Expands to 45 Terms for Uniformity Across Provisions.

Definition Section - We have now Sec. 43 becoming clause 66. Actual cost has gone away. So also WDV has gone away. But then you will find large number of other definitions in clause 66. You will find for example, the term paid was defined earlier. It is again continued. Plant definition has not undergone a change. Scientific research is not undergone a change, speculation transaction has not undergone a change. But then hitherto we had about eight or nine definitions and now we have 45 definitions under clause 66. These definitions are in relation to the terms used in different parts of this chapter under different sections. Now sections by and large do not carry the definition. Definitions are all placed under one residuary section - clause 66.

23. Unified Framework for MAT and AMT under Section 115JB, 115JC: Consolidation, Computation, and Compliance Simplified.

Section. 115JB MAT and AMT are now both put under chapter XIII- part D clause 206. Again a table, one deals with MAT. Second again deals with unit of international finance service center, like GIFT city. Third deals with AMT company, cooperative etc. etc. Fourth again deals with AMT. AMT on other than sitting in GIFT city and fifth deals with cooperative societies. We had different provisions or different sections covering this. Now they are all put under one section.

Book profit is defined as $B = P + (I - R)$.

P= Profit as for books of account.

I= is increase.

R= reductions. I is column B in table. R is column C in table. Instead of putting in a columnar, if they would have put it in a paragraph wise, it would have been easier to read. But nonetheless they have put it in the columnar

form and therefore you find out what is to be added and then what is to be reduced from your book profit. But keep apart the table versus essay form otherwise the things remain the same. so far as company being member of AOP etc., foreign company also the provisions are introduced in different tables. Long provision but because 115JB etc. all those MAT credit MAT set off AMT all are being taken under one section. You have a long section covering this situation.

24. Reorganization of Accounting and Taxation Provisions: Section 145 to Clauses 276–278 with Structural Realignment.

Section. 145:- Method of accounting remains the same. Old method of accounting section 145 is now clause 276 and sec. 145A becomes clause 277. 145A is one section that is now clause 277. Proviso becomes subsection two. Second proviso becomes subsection three. Explanation two becomes sub subsection five. Explanation one becomes subsection four. So section with two provisos and two explanations become section with five subsections. First subsection is the same as the old section. Subsections two and three are equal to provisos. Subsections four and five are equal to the explanation.

Section. 145B is receiving money by way of compensation to be taxed in the year of receipt etc. Same provision is there under clause 278.

25. Conclusion :- Is it a simple Act? Answer is yes. Instead of long winded sentences with number of provisos, explanations, proviso to proviso....., maybe the language has become simpler. Maybe understanding matter become simpler. But it is not as if the law has made a progress in the real sense. My worry is that now that this new act is brought about for some years the government will say we will not bring in any new amendment because how would it look if I bring in an act in 2025 and in 2026, 40 more amendments are brought in. There will be reluctance on the part of government to bring in amendments which would mean good necessary

changes which are essentially required for the purpose of making the act a success may also not see the light of the day.

Vote of Thanks by AIFTP National Secretary General Adv. Santosh Gupta:-

"Sir your masterful delivery and insightful analysis have not only clarified complex aspects of the new Income tax provision but have elevated our collective understanding to a higher level. It was truly a privilege for all of us to learn from your vast experience and unmatched clarity".

Mr. Gupta also thanks to the Past Presidents of the Federation as well as to all our learned participants for their enthusiastic presence and active involvement.

Disclaimer :

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All disputes are subject to Mumbai Jurisdiction.

Mr. Rajesh Mehta (Former Secretary General AIFTP)

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