

**JOINT /SELECT  
COMMITTEE REPORTS OF  
LEGISLATIVE ASSEMBLY -  
1949**

**The Taxation Laws  
(Extension to Merges  
States and Amendment)  
Bill, 1949**

List of Reports of Select Committees presented  
to the Constituent Assembly of India  
(Legislative) in 1949.

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15.	The Taxation Laws (Extension to Merged States and Amendment) Bill, 1949.	16.12.49.	24.12.49

**THE TAXATION LAWS (EXTENSION TO MERGED STATES AND  
AMENDMENT) BILL, 1949**

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

*Report of the Select Committee on the Taxation Laws (Extension to Merged States and Amendment) Bill, 1949*

We, the undersigned members of the Select Committee, to which the Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed hereto.

*Clause 2.*—We have introduced a definition of "appointed day" for the reasons mentioned against clause 4 below.

*Clause 4.*—Some of the States have merged after 1st August, 1949. In order that these States may be dealt with on similar lines, it is necessary to refer in specifically to the dates of merger. Accordingly, we have substituted the words "appointed day" for "1st day of August, 1949" in sub-clause (a) of this clause, and have introduced a definition of "appointed day" in clause 2.

*Clause 5.*—We have inserted this clause in the place of clause 16 of the original Bill. We consider that as the intention is merely to meet a temporary difficulty, it is not necessary to make any textual amendment of a permanent character in section 22(1) of the Income-tax Act. All that is necessary is to provide that so far as it concerns merged States and the assessment year 1949-50, the requirements of section 22(1) of the Income-tax Act shall be deemed to have been fulfilled if the general notice required by that section is published in the Press within two months of the merger of a State. The appropriate place for this provision is Chapter II of the Bill and not Chapter III.

We have consequently renumbered the clauses 5 to 15 of the Bill as clause numbers 6 to 16.

*Renumbered clause 9(2).* [*Clause 8(2) of the original Bill*].—The Bill is concerned mainly with replacing two existing Ordinances. This clause, however, introduces a new provision which is not covered by either Ordinance. While we accept this clause as it is, we feel that when Ordinances are being replaced by Bills, the latter should not ordinarily contain any matter, other than that which is strictly relevant to the subject matter of the Ordinances. All extraneous matter should be enacted in the form of *separate* Bills.

*Renumbered clause 10(3).* [*Clause 9(3) of original Bill*].—We accept the proposal that appeals in smaller cases might be disposed of by a single member of the Appellate Tribunal, specially authorised in this behalf. In this connection, we understand that under section 5(5) of the Income-tax Act, senior officers of the grade of Inspecting Assistant Commissioner could also be invested with the powers of Income-tax Officers so as to be able to deal with important or complicated assessments. We feel that this facility should be more freely utilised. It was pointed out, however, that the expansion of the cadre of Assistant Commissioners which our proposal would entail may not be possible immediately, in view of the need to economise expenditure.

*Renumbered clause 11.* (*Clause 10 of the original Bill*)—We accept this clause. At the same time, we would suggest for the separate consideration

of the Finance Minister whether in respect of new buildings, plant and machinery constructed or installed a short time before the critical date, 1st April, 1948, a similar concession could be extended.

*Renumbered clause 13. (Clause 12 of original Bill).—*We accept this clause. We, however, suggest that two further points may be considered by the Finance Minister in due course:—

(a) To what extent, if any, it is possible to extend a similar concession to industries of specified categories which started operation shortly before 1st April, 1948.

(b) To what extent, if any, it is possible to extend the period of the concession, in respect of an approved industry which is unable to start production or operation before the 1st April, 1951, on account of unforeseen or other practical difficulties.

*Renumbered clause 16. (Clause 15 of original Bill).—*We approve of the clause. We desire, however, that it should be considered in due course whether there is adequate justification for paying any interest in respect of advance tax beyond the date on which it is possible theoretically to complete the assessment and issue the final demand notice. According to the Income-tax Act, all returns of income should be sent in, at the latest, by the 1st of July of each year and we feel that no assessee should be entitled to claim any interest merely because his assessment is delayed. In our opinion, interest for any period after the 1st July should be only in respect of the excess, if any, of the advance payment over the correct amount of tax payable by the assessee. It has to be remembered that in the case of advance deductions of tax from salaries and interest on securities, no interest is payable, and we see no reason why any interest should be exigible in respect of advance payment under section 13A except in so far as the advance payment may be in excess of the amount ultimately found to be due.

*Clause 16 of original Bill.—*This clause has been redrafted and numbered as clause 5 in the amended Bill annexed to this Report.

*Clause 18(ii).—*The effect of the amendment made by this clause is to permit the Income-tax Department to disclose information concerning assesseees to an officer of the Provincial Government for the purpose of enabling the Provincial Government to levy or realise any provincial tax, and not merely the tax on agricultural income. We considered the suggestion whether the permission should be restricted to the disclosure of information for purposes of agricultural income-tax and sales tax only; but we feel that no such restriction is called for. The disclosure that is being permitted is, after all, confined only to so much of the information as is necessary for the proper levy or realisation of public dues. We understand that reciprocal provision for passing on information by provincial taxing authorities to the Income-tax authorities has been or is being made by the Provincial Governments.

*Clause 19.—*We consider that a time-limit should be set to the exercise of the power to grant exemption by executive order. We have accordingly inserted a proviso to the effect that the power conferred by this clause shall not be exercisable after the 31st March, 1955 except for the purpose of rescinding an exemption, reduction or modification already made.

We have been informed that the Finance Ministry is considering the question of the extent to which exemption may be granted in respect of remittances of foreign income.

*Clause 31(v).—*We have inserted the word "valuable" before the words "article or thing", in order to dispel any possible misapprehension.

*Clause 33.*—We have been informed by the Finance Minister that as a rule the Central Government accept the terms of settlement as recommended by the Investigation Commission.

We consider that with a view to give a clearer idea of the extent of the immunity from further assessment proceedings to persons who may be intending to come to a settlement, sub-section (4) of the proposed section 8A of the Investigation Commission Act should be recast in the manner indicated in the amended Bill annexed to this Report.

*Clause 34.*—In view of the fact that the Taxation Laws (Amendment) Ordinance, 1949 (IX of 1949) has since expired and has been replaced by the Taxation Laws Amendment (Second) Ordinance, 1949 (XXXIII of 1949), consequential changes in this clause have been made as indicated in the amended Bill. We have also added a reference to an earlier Ordinance, *vis.*, the Indian Income-tax (Amendment) Ordinance, 1948 (XXXVIII of 1948) which falls in the same category.

2. The Bill was published in Part V of the *Gazette of India*, dated the 10th December, 1949.

3. We think that the Bill has not been so altered as to require circulation under rule 49(5) of the Rules of Procedure and Conduct of Business, and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR  
 JOHN MATTHAI  
 MAHAVIR TYAGI  
 R. K. SIDHVA  
 N. G. RANGA  
 S. V. KRISHNAMOORTHY RAO  
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 K. T. SHAH  
 R. L. MALVIYA  
 H. N. KUNZRU  
 \*THAKUR DAS BHARGAVA  
 V. RAMAIAH  
 B. N. MUNAVALLI  
 G. S. GUHA  
 MONO MOHON DAS  
 DESHBANDHU GUPTA  
 B. P. JHUNJHUNWALA  
 G. DURGABAI

NEW DELHI;

The 16th December, 1949.

## MINUTES OF DISSENT

## I

On the eve of revision of shares of Income-tax to the Provinces Sjt. Chintaman Deshmukh, the Government of India has brought in the present Taxation Laws (Extension to Merged States and Amendment) Bill, whereby merged States will have to be assessed for Income-tax. The process of assessment will have to take at least 5 years as most of such States' people did not pay Income-tax before. And yet the Chintaman Deshmukh Award will take into consideration the social well-being of these merged people and the new administrative difficulties that the Provincial Governments are facing by shouldering such additional responsibilities. Orissa Province have shouldered the burden of rendering fair administration to additional 70 per cent. of people. I wonder if the present Bill will not complicate that Award!

2 The Taxation on Income (Investigation Commission) Act, 1947 is further reinforced by series of amendments (clauses 30 to 33). They may be necessary—some of them are necessary—but those amendments envisage the prolongation of existence of the Investigation Commission beyond what was originally contemplated. I was never charmed of such judicial investigations over tax-dodgers. Tax evasion can only be cured by empowering Income-tax Officers with drastic powers. Perhaps an Ordinance with wide powers to a Special Commissioner would show better results than dozens of judicial tribunals. Drastic remedy is necessary for such type of tax evasion. Summary decisions in business-like way by tribunals of businessmen is what is needed.

3. I regret that clause 32 has become necessary for the Investigation Commission. It savours of imitation police court practices.

(a) *New clause 6A.—Power of Commission to tender immunity from prosecution etc.*, lays down the Commission to "tender to such person immunity from prosecution for any offence under the Indian Income-tax Act, 1922 (XI of 1922), the Indian Penal Code (Act XLV of 1860), or any other law for the time being in force \* \* \*."

(b) New clause 6B provides for withdrawal of tender of immunity in certain cases.

I do not wish to comment on the similarity of police court methods and the Investigation Commission method. I thought we are establishing *Ram Rajya* based on high morals and ethics. It is not to be! I deprecate the tendencies in recent legislations enacted after the 15th August 1947, whereby honourable Ministers shew ready acquiescence to exemption of officials from moral delinquencies or as in the present instance granting immunities to informers.

4. It is high time that important taxation enactments such as the Income-tax Act, the Indian Finance Act, the Express Profits Tax Act and the Business Profits Tax Act are consolidated. The Income-tax Act is not 68 Sections but will perhaps be 250 Sections when consolidated. The Indian Finance Act extends over seven years and it is better after 26th January, 1950 a consolidated Indian Finance Bill be brought in by our Republican Finance Minister in the Republican Parliament.

B. DAS.

NEW DELHI;

The 16th December, 1949.

## II

While generally according my support to the provisions of this Bill, I am sorry I am constrained to make one or two observations, which I feel necessary in public interest. The perusal of the Bill will show that the Bill seeks to amend half a dozen different Acts, in addition to making provision in respect of merged

states. In my humble opinion time has arrived when the different enactments relating to taxation should be consolidated. The language of the taxation enactments is very involved and there are so many provisions, ifs and notwithstanding that an ordinary citizen is bound to get puzzled in the labyrinth of intricacies and complexities. In fact, the overhaul of the entire taxation system is overdue. It need hardly be stressed that the law should be simple, certain and easily understandable and contained in one Act, if possible. It was difficult for the members of the Select Committee like me to understand the full implications of the provisions of the Bill without the kind assistance of Honourable the Finance Minister and the Chairman of the Central Board of Revenue. How much more difficult will it be for the ordinary citizen to understand and appreciate unaided the provisions of this Bill, which every citizen is in law presumed to know. If such are the difficulties in understanding the law, how can we expect that people will be able to fully observe and abide by it. I would, therefore, urge with all the emphasis at my command that early steps should be taken to consolidate, amend and overhaul the taxation laws of the country.

2. I regret I cannot support the provisions of the Bill in regard to the enlargement of powers of the Taxation on Income Investigation Commission. It was an evil day when the Act relating to this Investigation Commission was passed at the instance of Mr. Liaquat Ali Khan, the then Finance Minister. It was a misconceived measure with no dynamic potentialities to start with. It was quite ineffective for a year. Several amending Acts were passed to put life into it. These Acts invested the Commission with large, exceptional and unprecedented powers. The Commission was a hybrid entity inasmuch as it combined the functions of the accuser, the investigator and the judge in one person. The Government once entertained the idea of giving this Commission jurisdiction over a small number of cases, but ultimately a very large number of cases was referred to the Commission. Apprehensions were expressed that great harassment may be caused and the exceptional powers granted may be abused. The Honourable Shri R. K. Shanmukham Chetty said on the 19th March, 1948 while the Taxation on Income (Investigation Commission) Amendment Bill was on discussion as follows:—

“My Honourable Friend, Pundit Thakur Das Bhargava, thought that every small man would be harassed. I might give him the most categorical assurance that it is our intention to place before the Commission only a few selected cases relating to the very top men in the business.” On the enquiry of an Honourable Member to know how many cases were to be placed before the Commission, the Finance Minister stated:—

“It is not possible for me to say how many, but it will be a comparatively small number and I personally would be glad even if a dozen of them could be brought to book. So no apprehension need be entertained.....”

This categorical assurance of the Honourable the Finance Minister has been torn to smithereens and more than hundred times the number of cases expected by him have been referred to this Commission. The date by which the cases were to be referred was subsequently extended. Unfortunately there exists a provision in one of these Act by virtue of which such cases could be multiplied if the Commission so chooses. It is said that only rupees sixteen lakhs have so far been recovered, but it is very earnestly hoped that more money may be recovered. I am extremely doubtful if even one-tenth of what the supporters of the Bill (five hundred crores, or more) expected would be recovered. It is said about rupees ten lakhs have already been spent. The end of the Commission is not in sight. The laudable attempt of enmeshing the tax dodgers and unearthing their hidden treasures has practically failed. The evaders of the tax are too clever and elusive to be caught and the machinery evolved to catch them has practically not been so successful as it was expected. The result is most unfortunate. Our National Government is hardly to blame. The extensive

evasion of tax and the machinery to liquidate it were both the legacies of the past. Our National Government tried to improve the machinery and tried to give the inane civil authority colour and life, but the machinery already established was too antiquated and outmoded. The powers of the civil courts, even fully enlarged and extended, have failed to bring justice home to the tax-evaders. In my humble opinion, as I have already explained before on many occasions, Commission of this nature manned by the best and highest of men, could not deliver goods. Big, influential and moneyed tax-dodgers do not understand the language of the Commission's Report clothed with civil powers. If a few of the country and examples were made of them, the results would have been more salutary and satisfactory. It is quite true that when the crime of tax evasion is committed *en masse* by large number of people, the situation is certainly one which requires tactful handling. This may be true of all kinds of crimes where sanctions based on public opinion become weak and people become callous and commit crimes openly. In fact, the previous Government, by its apathy to and disregard of public opinion brought about a situation in which tax evasion stalked with impunity in the land. The war profits were heavy and tax evasion was a pastime for a long time. This situation, which lasted for several years, when bribery and corruption were the order of the day, made assessments realisation of taxes all the more difficult. It is ten years that the war began and four years that it ended and even if tax evasion is brought home to miscreants, it is no easy matter to realise the money from those whose financial position may have undergone violent vicissitudes of fortune. In such a situation composition and settlements constitute the right remedy. Our National Government has now come round the right policy of investing the Commission with the powers to settle and compromise in regard to the referred cases. Out of the 98 cases disposed of 65 are said to have been the result of settlement. I welcome these provisions. I would like that the Government would also devise a machinery whereby the unREFERRED cases of thousands or hundreds of tax evaders could be similarly settled by the Commission or some other authority. I do not believe that any extension of powers as is envisaged in Sections 30 to 32 of the Bill will improve matters. On the contrary, my fear is that the strategy of the criminal law consisting of general searches, pardons and immunities may only accentuate and acerbate the position. I would prefer that the ordinary criminal law should be set in motion in respect of flagrant violation of the laws of the country against the tax-dodgers and example should be made of them by proceeding against them under the criminal law and, if necessary, by using the powers under Section 337, etc. of the Cr.P.C. If necessary, the criminal law may be amended. I am anxious that the whole chapter relating to these tax evaders of the war years should be closed as soon as possible. I believe we have lost more and we are likely to lose more than what we have recovered or are likely to recover. If these 'hidden treasures' of the tax-dodgers were allowed to be ploughed back into industry or otherwise used, it is likely we would have got much more by way of production and collection of income-tax during the years in which this money has laid dormant. We have lost in many other ways which I do not consider necessary to detail. The grant of such extensive and unprecedented powers to a Commission, which is charged with both investigation and judicial powers, is inquisitorial and objectionable. I am sorry I cannot shake off the fear that these provisions may be abused and the temptation of introducing them in the income-tax law of the country may after sometime prove irresistible. Moreover, the power under clause 32 sought to be given is extremely undue and vague. A man who commits a murder may be given immunity by the Commission under these provisions.

THAKUR DAS BHARGAVA.

New Delhi,  
 The 18th December, 1949.



(AS AMENDED BY THE SELECT COMMITTEE)

(Words *sidelined* or *underlined* indicate the amendments suggested by the Select Committee; asterisks indicate omissions)

A

## BILL

*to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income.*

WHEREAS it is expedient to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces;

AND WHEREAS it is expedient further to amend certain laws relating to taxation on income for the purposes hereinafter appearing;

It is hereby enacted as follows:—

### CHAPTER I

#### PRELIMINARY

1. **Short title.**—This Act may be called the Taxation Laws (Extension to Merged States and Amendment) Act, 1949.

### CHAPTER II

#### EXTENSION OF TAXATION LAWS TO MERGED STATES

2. **Definitions.**—In this Chapter—

(1) the expression "merged States" means all the States and parts of States which are administered by virtue of the States' Merger (Governors' Provinces) Order, 1949, as if they formed part of a Governor's Province or administered by virtue of the States' Merger (Chief Commissioners' Provinces) Order, 1949, as if they were a Chief Commissioner's Province;

(2) "appointed day" means—

(a) the 1st day of August, 1949, in relation to the States specified—

(i) in Schedules I to VI of the States' Merger (Governors' Provinces) Order, 1949, and

(ii) in paragraph (1) of Article 2 of the States' Merger (Chief Commissioners' Provinces) Order, 1949; and

(b) the 1st day of December, 1949, in relation to the States of Banaras and Tehri-Garhwal.

3. **Extension of taxation laws to merged States.**—(1) The following Acts, namely:—

(i) the Indian Income-tax Act, 1922 (XI of 1922),

(ii) the Government Trading Taxation Act, 1926 (III of 1926),

(iii) the Business Profits Tax Act, 1947 (XXI of 1947),

(iv) the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947),

(v) the Indian Finance Act, 1949 (XIV of 1949),

(vi) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949),

and all rules and orders made thereunder which are in force immediately before the commencement of this Act, are hereby extended to, and shall be in force in, all the merged States.

(2) The Indian Income-tax Act, 1922, the Business Profits Tax Act, 1947, and the Indian Finance Act, 1949, and all rules and orders made thereunder, shall operate as if they had been extended to, and brought into force in, all the merged States on the 1st day of April, 1949.

**4. Interpretation of laws as extended.**—In any Act, rule or order extended by section 3 to the merged States, notwithstanding anything contained in the General Clauses Act, 1897 (X of 1897),—

(a) any reference, by whatever form of words, to the Acceding States or the Indian States shall be construed as not including a reference to any of the merged States;

(b) any reference, by whatever form of words, to British subjects shall be deemed to include a reference to persons who, immediately before the appointed day, were subjects of any of the merged States;

(c) any reference, by whatever form of words, to any Governor's Province shall be construed as including a reference to those merged States which are now administered as if they formed part of that Province; and

(d) any reference, by whatever form of words, to the Provinces generally or to the Chief Commissioners' Provinces generally shall be construed as including a reference to those merged States which are now administered as if they were a Chief Commissioner's Province.

**5. General notice for return of income in the case of merged States.**—The provisions of sub-section (1) of section 22 of the Indian Income-tax Act, 1922 (XI of 1922), as extended to the merged States shall, in respect of the year ending on the 31st day of March, 1950, be deemed to have been complied with, if the notice in terms of that sub-section is given within a period of two months of the appointed day.

**6. Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of any Act, rule or order extended by section 3 to the merged States, the Central Government may, by order, make such provisions or give such directions as appear to it to be necessary for removal of the difficulty.

**7. Repeal of corresponding laws and savings.**—(1) If, immediately before the 26th day of August, 1949, there was in force in any of the merged States any law relating to income-tax, super-tax or business profits tax, that law shall cease to have effect except for the purposes of the levy, assessment and collection of income-tax and super-tax in respect of any period not included in the previous year for the purposes of assessment under the Indian Income-tax Act, 1922, as extended to that State by section 3, or, as the case may be, the levy, assessment and collection of business profits tax for any chargeable accounting period ending on or before the 31st day of March, 1948, and for any purposes connected with such levy, assessment or collection:

Provided that any reference in any such law to an officer, authority, tribunal or Court shall be construed as a reference to the corresponding officer, authority, tribunal or Court appointed or constituted by or under the Indian Income-tax Act, 1922, or, as the case may be, the Business Profits Tax Act, 1947, as extended by section 3 to that merged State:

Provided further that if any question arises as to who such corresponding officer, authority, tribunal or Court is, the decision of the Central Government thereon shall be final.

(2) Notwithstanding anything contained in any Order made by the Government of any Province under the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947) applying the Indian Income-tax Act, 1922 or the Business Profits Tax Act, 1947 to any of the merged States now administered as part of that Province, and repealing the corresponding enactment, if any, of that merged State in force therein immediately before such application, that enactment shall be deemed to be a law in force in that merged State immediately before the 26th day of August, 1949, and the provisions of sub-section (1) of this section shall apply accordingly in relation to that law; and all references to the Indian Income-tax Act, 1922 and the Business Profits Tax Act, 1947 shall be omitted from, and shall be deemed never to have been included in, the said Order.

(3) If, immediately before the 26th day of August, 1949, there was in force in any of the merged States any law corresponding to the Government-Trading Taxation Act, 1926, the Taxation on Income (Investigation Commission) Act, 1947, or the Payment of Taxes (Transfer of Property) Act, 1949, whether by virtue of an order under the Extra-Provincial Jurisdiction Act, 1947, or by virtue of any other legislative power, such corresponding law is hereby repealed:

Provided that section 6 of the General Clauses Act, 1897, shall apply in relation to such repeal as if the corresponding law had been an enactment

### CHAPTER III

#### AMENDMENT OF THE INDIAN INCOME-TAX ACT, 1922 (XI OF 1922)

**8. Amendment of section 2, Act XI of 1922.**—In section 2 of the Indian Income-tax Act, 1922 (hereinafter in this Chapter referred to as the Income-tax Act),—

(1) to clause (3A), the following provisos shall be added, namely:—

“Provided that, as respects any period included in the previous year for the purpose of making any assessment for the year ending on the 31st day of March, 1950, or for any subsequent year, and as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, the merged States shall be deemed to be territories comprised in the Provinces of India:

Provided further that, for the purposes of sections 4A and 4B, the merged States shall, as respects any period whether before or after the 31st day of March, 1949, be deemed to be territories comprised in British India”;

(2) in clause (7A), after the figures “1913” the words “or a company formed and registered under a law in force in any of the merged States” shall be inserted; and

(3) after clause (8), the following clause shall be inserted, namely:—

“(8A) ‘merged States’ means all the States and parts of States which are administered by virtue of the States’ Merger (Governors’ Provinces) Order, 1949, as if they formed part of a Governor’s Province, or administered by virtue of the States’ Merger (Chief Commissioners’ Provinces) Order, 1949, as if they were a Chief Commissioner’s Province;”.

**9. Amendment of section 4, Act XI of 1922.**—In section 4 of the Income-tax Act,—

(1) in sub-section (1), after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

“*Explanation 4.*—For the purposes of sub-clause (iii) of clause (b) of sub-section (1), income, profits and gains accruing, or arising, in any of the merged States before the beginning of a previous year and after the 1st day of April, 1939, shall be deemed to be brought into, or received in, British India during such year if, and only if, they are brought into, or received in, any part of British India other than that merged State during such year.”;

(2) in sub-section (3), after clause (xii) the following clause shall be inserted, namely:—

“(xiii) any income of a scientific research association which is, for the time being, approved for the purposes of clause (xiii) of sub-section (2) of section 10 where the income is applied solely to the purposes of that association and accrues or arises after the 31st day of March, 1949.”

**10. Amendment of section 5A, Act XI of 1922.**—In section 5A of the Income-tax Act,—

(1) in sub-section (1), for the words “not more than ten persons” the words “as many persons as it thinks fit” shall be substituted;

(2) in sub-section (2), the words “of an equal number” shall be omitted;

(3) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Save as hereinafter provided a Bench shall consist of one Judicial Member and one Accountant Member:

Provided that the President or any other member of the Tribunal specially authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Income-tax officer in the case does not exceed Rs. 15,000:

Provided further that the President may, for the disposal of any particular case, constitute a special Bench consisting either of two Judicial Members and one Accountant Member or of one Judicial Member and two Accountant Members.”

**11. Amendment of section 10, Act XI of 1922.**—In section 10 of the Income-tax Act,—

(1) in sub-section (2),—

(i) after clause (vi), the following clause shall be inserted, namely:—

“(via) in respect of depreciation of buildings newly erected, or of machinery or plant being new which has been installed, after the 31st day of March, 1948, a further sum (which shall be deductible in determining the written down value) equal to the amount admissible under clause (vi) (exclusive of the extra allowance for double or multiple shift working of the machinery or plant and the initial depreciation allowance admissible under that clause for the first year of erection of the building or the installation of the machinery or plant) in the assessments for each of

the five years commencing on the 1st day of April, 1949, and ending with the 31st day of March, 1954 :

Provided that where, in respect of such machinery or plant, the assessee establishes that the market value of similar machinery or plant on the 31st day of March, 1953, is lower than the original cost, then, subject to the provisions of clause (vi), there shall be made in the assessment for the year commencing next after that date a further allowance (which shall be deductible in determining the written down value) of an amount by which the written down value of the machinery or plant as on that date (without deduction of the initial depreciation admissible in the first year) would have exceeded the corresponding written down value thereof as on the same date if the market price of the machinery or plant had been taken as the actual cost to the assessee.”;

(i) in the second proviso to clause (vii), for the words “is sold” the words “is sold, whether during the continuance of the business or after the cessation thereof,” shall be substituted;

(2) to clause (a) of sub-section (5) the following proviso shall be added, namely:—

“Provided that where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case.”

**12. Amendment of section 15B, Act XI of 1922.**—To sub-section (2) of section 15B of the Income-tax Act, the following proviso shall be added, namely:—

“Provided that where any sum paid during the previous year as donation to the fund known as the Gandhi National Memorial Fund is in excess of the limits specified in this section, the exemption granted under this section shall apply to the whole of that sum.”

**13. Insertion of new section 15C in Act XI of 1922.**—After section 15B of the Income-tax Act, the following section shall be inserted, namely:—

“15C. *Exemption from tax of newly established industrial undertakings.*—(1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking to which this section applies as do not exceed six per cent. per annum on the capital employed in the undertaking, computed in accordance with such rule as may be made in this behalf by the Central Board of Revenue.

(2) This section applies to any industrial undertaking which—

(i) is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building, machinery or plant used in a business which was being carried on before the 1st day of April, 1948;

(ii) has begun or begins to manufacture or produce articles in any Province in India at any time within a period of three years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the official Gazette, specify with reference to any particular industrial undertaking;

(iii) employs more than fifty persons; and

(iv) involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not directly generated by human agency:

Provided that the Central Government may, by notification in the official Gazette, direct that the exemption conferred by this section shall not apply to any particular industrial undertaking.

(3) The profits or gains of an industrial undertaking to which this section applies shall be computed in accordance with the provisions of section 10.

(4) The tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking as is attributable to that part of the profits or gains on which the tax is not payable under this section.

(5) Nothing in this section shall affect the application of section 28A in relation to the profits or gains of an industrial undertaking to which this section applies, and for the purposes of that section, the expression 'assessable income' shall be deemed to include the profits or gains in respect of which the tax is not payable under this section.

(6) The provisions of this section shall apply to the assessments for the years commencing on the 1st day of April, 1949 and ending on the 31st day of March, 1954."

**14. Amendment of section 16, Act XI of 1922.**—In clause (a) of sub-section (1) of section 16 of the Income-tax Act, for the words, figures and letter "section 15 and section 15B", the words, figures and letters "section 15, section 15B and section 15C" shall be substituted.

**15. Amendment of section 17, Act XI of 1922.**—In sub-section (3) of section 17 of the Income-tax Act, after the words, figures and letter "or under section 15B" the words, figures and letter "or under section 15C" shall be inserted.

**16. Amendment of section 18A, Act XI of 1922.**—In section 18A of the Income-tax Act,—

(i) in sub-section (5), after the words "from the date of payment", the following shall be inserted, namely:—

"to the date of the provisional assessment made under section 23B, or if no such assessment has been made.";

(ii) in sub-section (6), in the first proviso, after the word "Provided" the word "also" shall be inserted, and before the proviso as so amended, the following proviso shall be inserted, namely:—

"Provided that where a provisional assessment is made under section 23B, interest shall be calculated in accordance with the foregoing provision up to the date on which the tax as provisionally assessed is paid, and thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so assessed (in so far as it relates to income to which the provisions of section 18 do not apply) falls short of the said eighty per cent."

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**17. Insertion of new section 23B in Act XI of 1922.**—After section 23A of the Income-tax Act, the following section shall be inserted, namely:—

**"23B. Power to make provisional assessment in advance of regular assessment.**—(1) The Income-tax Officer may, at any time after the receipt of a return made under section 22, proceed to make in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any,

accompanying it, after giving due effect to (i) the allowance referred to in paragraph (b) of the proviso to clause (vi) of sub-section (2) of section 10, and (ii) any loss carried forward under sub-section (2) of section 24.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received, although the return of the partner himself may not have been received.

(3) A firm may be provisionally assessed under sub-section (1) as if it were an unregistered firm, unless the firm fulfils such conditions as the Central Government may, by notification in the official Gazette, specify in that behalf.

(4) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(5) For the avoidance of doubt, it is hereby declared that the provisions of section 45 (except the first proviso) and section 46 apply in relation to any tax payable in pursuance of a provisional assessment made under sub-section (1) as if it were a regular assessment made under section 23.

(6) Income-tax paid or deemed to have been paid under section 18 or section 18A in respect of any income provisionally assessed under sub-section (1), shall be deemed to have been paid towards the provisional assessment.

(7) After a regular assessment has been made under section 23, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(8) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 23."

**18. Amendment of section 54, Act XI of 1922.**—In sub-section (3) of section 54 of the Income-tax Act,—

(i) in clause (d), after the word "suit" the words "or proceeding" shall be inserted;

(ii) in clause (j), the words "on agricultural income" shall be omitted.

**19. Insertion of new section 60A in Act XI of 1922.**—After section 60 of the Income-tax Act, the following section shall be inserted, namely:—

"60A. *Power to make exemption, etc., in relation to merged States.*—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the merged States, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any person or class of persons:

Provided that the power conferred by this section shall not be exercisable after the 31st day of March, 1955, except for the purpose of rescinding an exemption, reduction or modification already made."

**20. Amendment of section 61, Act XI of 1922.**—In sub-clause (a) of clause (iv) of sub-section (2) of section 61 of the Income-tax Act after the figures "1938"

the words and figures "in British India, or before the 1st day of April, 1949, in any of the merged States" shall be inserted.

**21. Amendment of section 64, Act XI of 1922.**—In clause (b) of sub-section (5) of section 64 of the Income-tax Act, the words "by him" shall be omitted and shall be deemed never to have been inserted.

**22. Amendment of section 66, Act XI of 1922.**—For sub-section (8) of section 66 of the Income-tax Act, the following sub-section shall be substituted, namely:—

"(8) For the purposes of this section, 'the High Court' means—

(a) in relation to any Governor's Province, the High Court of that Province;

(b) in relation to the Chief Commissioners' Provinces of Delhi, Himachal Pradesh and Bilaspur, the High Court of East Punjab;

(c) in relation to the Chief Commissioners' Provinces of Ajmer-Merwar and Panth Piploda, the High Court at Allahabad;

(d) in relation to the Chief Commissioner's Province of Coorg, the High Court at Madras;

(e) in relation to the Chief Commissioner's Province of the Andaman and Nicobar Islands, the High Court at Calcutta;

(f) in relation to the Chief Commissioner's Province of Kutch, the High Court at Bombay; and

(g) in relation to the Chief Commissioner's Province of Bhopal, the High Court at Nagpur."

#### CHAPTER IV

##### AMENDMENT OF THE INDIAN FINANCE ACT, 1942

**23. Amendment of section 10, Act XII of 1942.**—To sub-section (1) of section 10 of the Indian Finance Act, 1942, after the fourth proviso, the following further proviso shall be added, namely:—

"Provided further that if it is subsequently found that the sum repaid in accordance with the provisions of this sub-section was in excess of the sum so repayable, the sum repaid in excess may be recovered in the same manner as excess profits tax may be recovered under the Excess Profits Tax Act, 1940 (XV of 1940), and notwithstanding anything contained in sub-section (7) of section 46 of the Indian Income-tax Act, 1922 (XI of 1922), as made applicable by section 21 of the Excess Profits Tax Act, 1940, such recovery may be made at any time."

#### CHAPTER V

##### AMENDMENT OF THE EXCESS PROFITS TAX ORDINANCE, 1943

**24. Amendment of section 2, Ordinance XVI of 1943.**—For sub-section (3) of section 2 of the Excess Profits Tax Ordinance, 1943, the following sub-section shall be substituted, namely:—

"(3) Any further sum, such as is referred to in sub-section (1), deposited in accordance with the provisions of that sub-section, whether before or after the commencement of the Taxation Laws Amendment Ordinance, 1949, shall not be repaid by the Central Government unless five years have expired from the date on which the deposit was made:

Provided that the Central Government may repay any such deposit before the expiry of the period specified herein if it is satisfied that such repayment is in the public interest."



## CHAPTER VI

## AMENDMENT OF THE INDIAN FINANCE ACT, 1946

**25. Amendment of section 11, Act VII of 1946.**—To sub-section (12) of section 11 of the Indian Finance Act, 1946, the following proviso shall be added, namely:—

“Provided that where, subsequent to any repayment made under the provisions of section 10 of the Indian Finance Act, 1942 (XII of 1942) or section 2 of the Excess Profits Tax Ordinance, 1948 (XVI of 1948), a reduction in the excess profits tax is effected whether by relief given in respect of a deficiency of profits, or by relief given in respect of a double excess-profits tax, or by an order passed in any appeal, or otherwise, the sum to be refunded to the assessee on account of such reduction shall be decreased by such proportion thereof as the amount already repaid bore to the excess-profits tax before the reduction as aforesaid.”

## CHAPTER VII.

## AMENDMENT TO THE BUSINESS PROFITS TAX ACT, 1947

**26. Amendment of section 2, Act XXI of 1947.**—In section 2 of the Business Profits Tax Act, 1947 (hereinafter in this Chapter referred to as the Business Profits Tax Act),—

(1) to clause (2A) the following proviso shall be added, namely:—

“Provided that, as respects any accounting period whether falling wholly within, or partly within and partly without, the year ending on the 31st day of March, 1949, for the purpose of making any assessment under this Act, and as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, the merged States shall be deemed to be territories comprised in the Provinces of India.”;

(2) in clause (5), after the figures “1913” the words “or a company formed and registered under a law in force in any of the merged States” shall be inserted; and

(3) after clause (12), the following clause shall be inserted, namely:—

“(12A) ‘merged States’ means all the States and parts of States which are administered by virtue of the States’ Merger (Governors’ Provinces) Order, 1949, as if they formed part of a Governor’s Province, or administered by virtue of the States’ Merger (Chief Commissioners’ Provinces) Order, 1949, as if they were a Chief Commissioner’s Province.”

**27. Amendment of section 4, Act XXI of 1947.**—In section 4 of the Business Profits Tax Act, after the first proviso, the following further proviso shall be inserted, namely:—

“Provided further that where the profits include any profits from an industrial undertaking which are exempt from income-tax under section 15C of the Indian Income-tax Act, 1922 (XI of 1922), the business profits tax otherwise payable on the whole of the taxable profits shall be reduced by an amount which bears to that business profits tax the same proportion as the amount of such inclusion bears to the whole profits.”

**28. Insertion of new section 23A in Act XXI of 1947.**—After section 23 of the Business Profits Tax Act, the following section shall be inserted, namely:—

“23A. *Power to make exemption, etc., in relation to merged States.*—If the Central Government considers it necessary or expedient so to do, for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the merged States, the

Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of business profits tax in favour of any class of profits, or in regard to the whole or any part of the profits of any person or class of persons."

**29. Amendment of Schedule II, Act XXI of 1947.**—(1) To rule 2 of Schedule II of the Business Profits Tax Act, the following *Explanation* shall be added, namely:—

*Explanation.*—A reserve or paid-up share capital brought into existence by creating or increasing (by re-valuation or otherwise) any book asset is not capital for the purposes of ascertaining the abatement under this Act in respect of any chargeable accounting period."

(2) The amendment made by sub-section (1) shall be deemed to have had effect from the date on which the Business Profits Tax Act came into force.

## CHAPTER VIII

### AMENDMENT OF THE TAXATION ON INCOME (INVESTIGATION COMMISSION) ACT, 1947

**30. Amendment of section 3, Act XXX of 1947.**—For clause (b) of section 3 of the Taxation on Income (Investigation Commission) Act, 1947 (hereinafter in this Chapter referred to as the Investigation Commission Act), the following clause shall be substituted, namely:—

"(b) to investigate in accordance with the provisions of this Act any case or points in a case referred to it under section 5 and make a report thereon (including such interim reports as the Commission may think fit) to the Central Government in respect of all or any of the assessments made in relation to the case before the date of its report or interim report, as the case may be;"

**31. Amendment of section 6, Act XXX of 1947.**—In section 6 of the Investigation Commission Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Commission shall have power to require any person or banking or other company to prepare and furnish on or before a specified date written statement of accounts and affairs verified in such manner as may be prescribed by the Commission and, if so required by the Commission, also duly verified by a qualified auditor, giving information on such points or matters as in the opinion of the Commission may, directly or indirectly, be useful for, or relevant to, any case referred to it, and any person or banking or other company so required shall be bound, notwithstanding any law to the contrary, to comply with such requirement.";

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) For the purpose of any investigation, the Commission may impound and retain in its custody, for such period as it thinks fit, any document produced before it.";

(iii) in sub-section (4), for the brackets, figures and word "(1) and (2)", the brackets, figures, word and letter "(1), (2) and (2A)" shall be substituted;

(iv) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) Where in the opinion of the Commission any person or banking or other company is likely to be in possession of any informa-

tion or document which may, directly or indirectly, be useful for, or relevant to, any case referred to it or any case likely to be reported by the Commission to the Central Government under the provisions of sub-section (4) of section 5, the Commission, and, subject to the direction of the Commission, any authorised official, may make enquiries in such manner as it or he may deem fit and obtain from such person or banking or other company statements, on oath or otherwise, on such points or matters as may be specified; and for the purpose of any such enquiry, the Commission and the authorised official shall have all the powers conferred on them by sub-sections (1), (2), (2A), (3) and (4) ;

(v) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) Subject to any rules made in this behalf under this Act, any authorised official shall have power—

(i) to examine at all reasonable times any books of account or other documents which in his opinion will be useful for or relevant to the proceedings in any case under this Act;

(ii) if specially authorised in this behalf by the Commission, to enter any building or place where he has reason to believe that any such books of account or documents may be found;

(iii) to seize any such books of account or documents or place marks of identification thereon and make extracts or copies therefrom;

(iv) in the course of any search under this section, to make a note or an inventory of any other valuable article or thing found in the course of such search which in his opinion may be useful for or relevant to the disposal of any case under this Act;

and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to searches, so far as can be made applicable, shall apply to searches made under the authority of this section.

**32. Insertion of new sections 6A and 6B in Act XXX of 1947.**—After section 6 of the Investigation Commission Act, the following sections shall be inserted, namely:—

“6A. *Power of Commission to tender immunity from prosecution, etc.*—(1) At any stage of the investigation into a case referred to it under section 5, the Commission may, with a view to obtaining the evidence of any person appearing to have been, directly or indirectly, concerned in or privy to the evasion of payment of taxation on income in such case and after recording its reasons for so doing, tender to such person immunity from prosecution for any offence under the Indian Income-tax Act, 1922 (XI of 1922), the Indian Penal Code (Act XLV of 1860) or any other law for the time being in force, and also from the imposition of any penalty under the Indian Income-tax Act, 1922, on condition of his making a full and true disclosure of the whole of the circumstances relative to the evasion of payment of taxation on income and to every other person concerned, whether as principal, agent or abettor, in such evasion.

(2) Nothing contained in sub-section (1) shall render any person immune from liability to taxation on so much of his income as may be found to have been concealed or to have escaped taxation.

(3) Every person accepting a tender of immunity under this section shall be examined as a witness before the Commission.

6B. *Withdrawal of tender of immunity in certain cases.*—(1) If at any time after the tender of immunity under section 6A it appears to the Commission that any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, the Commission may record a finding to that effect, and thereupon the immunity shall be deemed to be withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under the Indian Income-tax Act, 1922 (XI of 1922), to which he would otherwise have been liable.

(2) If no such finding as is referred to in sub-section (1) is recorded by the Commission, the person to whom a tender of immunity has been made and has been accepted by him shall not be liable to prosecution for any offence in respect of which the tender of immunity was made or to the imposition of any penalty under the Indian Income-tax Act, 1922, to the extent covered by such immunity."

**33. Insertion of new section 8A in Act XXX of 1947.**—After section 8 of the Investigation Commission Act, the following section shall be inserted, namely:—

"8A. *Settlement of cases under investigation.*—(1) Where any person concerned in any case referred to or pending before the Commission for investigation applies to the Commission at any time during such investigation to have the case or any part thereof settled in so far as it relates to him, the Commission shall, if it is of opinion that the terms of the settlement contained in the application may be approved, refer the matter to the Central Government, and if the Central Government accepts the terms of such settlement, the Commission shall have the terms thereof recorded and thereupon the investigation, in so far as it relates to matters covered by such settlement, shall be deemed to be closed.

(2) For the purpose of enforcing the terms of any settlement arrived at in pursuance of sub-section (1), the Central Government may direct that such proceedings as may be appropriate under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940) or any other law may be taken against the person to whom the settlement relates, and, in particular, the provisions of the second proviso to clause (a) of sub-section (5) of section 23, section 24B, the proviso to sub-section (2) of section 25A, the proviso to sub-section (2) of section 26 and sections 44 and 46 of the Indian Income-tax Act, 1922, shall be applicable to the recovery of any sum specified in such settlement by the Income-tax officer having jurisdiction to assess the person by whom such sum is payable as if it were income-tax or an arrear of income-tax within the meaning of those provisions.

(3) Subject to the provisions of sub-section (6) of section 8, any settlement arrived at under this section shall be conclusive as to the matters stated therein, and no person whose case has been so settled shall be entitled to reopen in any proceeding for the recovery of any sum under this section or in any subsequent assessment or reassessment proceeding relating to taxation on income or in any other proceeding before any Court or other authority any matter which forms part of such settlement.

(4) Where a settlement has been accepted by Government under sub-section (1), no proceedings under section 34 of the Indian Income-tax Act, 1922 (XI of 1922) or under section 15 of the Excess Profits Tax Act, 1940 (XV of 1940) shall be initiated in respect of the items of income covered by the settlement, unless the initiation of such proceedings is expressly allowed by the terms of the settlement.

## CHAPTER IX

### MISCELLANEOUS

**34. Repeal and saving.**—(1) The Taxation Laws (Extension to Merged States) Ordinance, 1949 (XXI of 1949) and the Taxation Laws Amendment (Second) Ordinance, 1949 (XXXIII of 1949) are hereby repealed.

(2) Notwithstanding any such repeal or the expiry of the Excess Profits Tax Ordinance (Amendment) Ordinance, 1948 (XXVII of 1948), the Taxation on Income (Investigation Commission) (Amendment) Ordinance, 1948 (XXXV of 1948), the Indian Income-tax (Amendment) Ordinance, 1948 (XXXVIII of 1948) and the Taxation Laws (Amendment) Ordinance, 1949 (IX of 1949),

anything done or any action taken in the exercise of any power conferred by any of the Ordinances referred to in this section shall for all purposes be deemed to have been done or taken in the exercise of the powers conferred by this Act as if this Act were in force on the day on which such thing was done or action was taken.

**THE CONSTITUENT ASSEMBLY OF INDIA  
(LEGISLATIVE)**

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**Report of the Select Committee on the Taxation Laws  
(Extension to Merged States and Amendment) Bill, 1949 ;  
with the Bill as amended.**

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*(As amended by the Select Committee.)*