BUDGET HIGHLIGHTS : DIRECT & INDIRECT TAXATION

- Rates of Income Tax liberalized by increasing basic threshold limit from Rs. 1,10,000/- to Rs. 1,50,000/-.
- Threshold limit for a woman assessee Rs. 1,80,000 & for senior citizen assessee Rs. 2,25,000.
- No change in Corporate Tax.
- No change in Surcharge and Education Cess.
- Additional deduction u/s 80D for medical insurance premium paid for parents.
- Short term capital gains rate increased from 10% to 15%.
- Senior Citizen Saving Scheme 2004 and the Post Office Time Deposit Account added to the basket of saving instruments under Section 80C.
- STT now deductible as business expenses instead of rebate.
- Introduction of Commodities Transaction Tax.
- BCTT to be withdrawn from 01-04-2009.
- PAN requirement to be extended to all transactions in financial market subject to a threshold limit.
- CST rate cut to 2% from 3%.
- No Change in Service Tax rate.
- Basic Exemption limit for Service Tax increased to Rs.10 Lakhs.
- Increase in rate of work contract service under composition scheme from 2% to 4% w.e.f. 01-03-2008.
- Cenvat rate reduced from 16 per cent to 14 per cent.
- No change in peak rate of custom duty.
- Excise duty on all goods produced in pharmaceutical sector reduced from 16% to 8%.
- Pan India rates of Stamp Duty mooted for securities transactions.

ECONOMIC SURVEY

INDIA – AN OASIS IN THE DESERT?

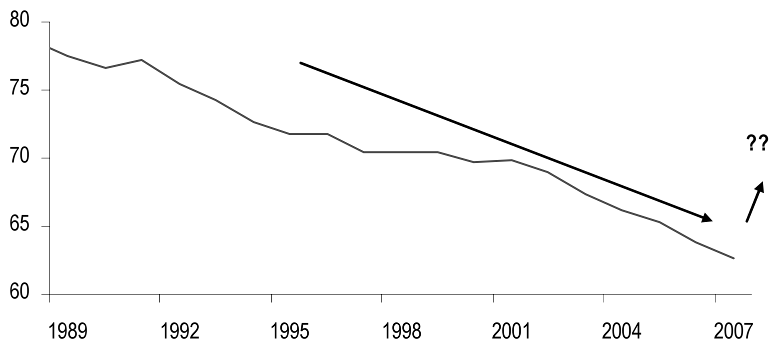
- India's growth rate has moved up from the 5-6% average of the 1980's to 8% + 2004 onwards. India's GDP is US$ 1.16 trillion and on a purchasing power parity basis it is the third largest economy after the US and China.
- India's GDP growth estimate for 2007-08 is 8.9% and 8.3% for 2008-09 even as the estimate for global growth has gone down to 2.7% for 2008.
- There was an acceleration in domestic investment and saving rates to drive growth and provide the resources for meeting the average 9% target for the Eleventh five year plan.
- While these are impressive numbers to look at in hindsight, the times ahead are likely to test our resilience.
- The economic survey of India, released on the eve of the budget was cautiously upbeat. The next year will be marked by a slowdown in the global economy, relatively high interest rates in India (as compared to the developed markets), a strong rupee, rising commodity prices and inflation.
- The quarter ended December 2007 grew at a modest 1.2% over the previous quarter. This marks the slowest quarter in over two years. Economic momentum looks weaker now.
- That said the 8-9% growth target for this year is quite respectable. If India achieves this, it will boost confidence both domestically and internationally. The decoupling debate has been on for long, and this is the first true test of the domestic strength of emerging economies like India.
- If the government's forecasts on India's growth proves right, India will prove to be the proverbial oasis in the desert – as India's growth 'decouples' from the weakness in the global economy.

Focus on the Indian Consumer

- Consumption as a percentage of GDP has come down from levels of 78% to 63% over the years.
- With global economy on the threat, India needs to revive consumer demand to hold growth up.

- The union budget 2008-09 had a number of populist measures. These should boost consumption as higher level of exemption on personal incomes should leave enough money with consumers to consume more – and the lower excise duties for some consumer durables will make these purchases more affordable.
- A lift in consumption growth without interest rates having come down yet is a definite positive as there may be more to expect from a lower borrowing rates later in the year.
- The consumption spending trend in India is at odds with the recent rise in per capita GDP (see next page for chart). India's per capita GDP is at US$ 1021. This is has doubled in five years (partly on account of the Rupees appreciation). The five-year average growth in per capita income is 7.2%. This means the average Indian will double his income every 10 years.

Table: Private Consumption as a percentage of GDP



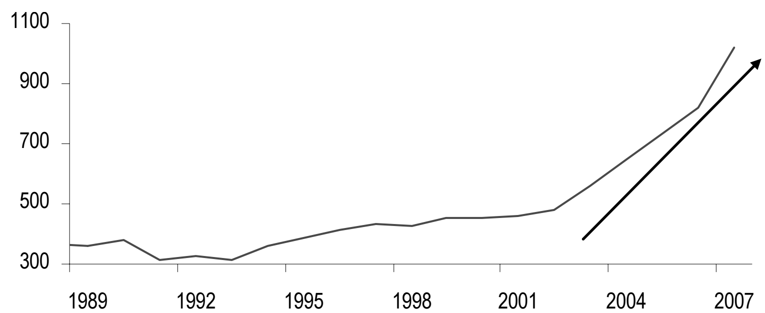
Source: Ministry of Statistics

Saving and Investing India

- India's growth has been fuelled by rising investments in the past five years at the expense of consumption. The savings rate has gone up from 26.4% of GDP in 2002-03 to 34.8% in 2006-07.
- The gross domestic capital formation has increased from 23% to 36%. This is evident in the pace of infrastructure development and construction happening across the country.
- India now has a savings deficit and needs foreign capital to finance its aggressive investment requirements. This should be viewed as a positive development as a surplus of savings over investment is an indicator of inadequate demand within the economy.

- An important element of the savings-investing profile of the country is that not only has private sector saving gone up (on the back of buoyant corporate earnings), but also public sector savings have gone from negative to positive from 2003-04. This is most evident in the turnaround of our railways.
- In contrast to this, most of the increase in investment has been driven by the private sector investments which went up by 10.3% over the last 6 years. Private corporate investment is at 14.5% of GDP and household investment is at 12.7%. Private savings is evident from the growth in per capita income and declining consumption share.

Table: Per capita income in US$



Source: CSO

Manufacturing – A Stuttering Engine?

- The industrial sector witnessed a slowdown in the first nine months of the current financial year. The growth of 9% during April-December 2007 when viewed against the backdrop of the robust growth witnessed in the preceding four years suggests that there is a definite moderation in the momentum for the industrial sector.
- The moderation in growth has been selective and limited to industries like chemicals, food products, leather, jute textiles, etc.
- Export related industries have been hit by the rising rupee. The Economic Survey 2007-08 mentions that rather than short run measures targeted at specific industries, entrepreneurs and the government needs to focus on long term productivity improvement.

Agriculture : The Wildcard

- Agricultural production (food grain, oilseeds, etc.) in 2007-08 is likely to miss the target for the second year in a row. Food grain production has now missed the target every year for this decade.
- This chronic low growth has lead to the agriculture's share of GDP falling to 18%. Its importance for the economy has reduced at the margin.
- However, on the positive side, agriculture, that has been a drag on the economic growth can possibly surprise as the problem of low investment is getting addressed.
- The share of capital formation in agricultural GDP is rising from a low of 10.2% in FY04 to 12.5% in FY07. This rate needs to be enhanced to 16% to achieve the Eleventh Plan target of 4% growth in agricultural GDP.

Brace yourselves for a year that is likely to show some moderation in growth, but could prove to be the year where India can win a lot of confidence if it manages to grow despite the odds against it.

DIRECT TAXATION

All the amendments proposed in the Finance Bill 2008 would be effective from Assessment Year 2009-2010 (which corresponds with Financial Year 2008-09), unless specifically mentioned otherwise.

Rates of Taxes :

In case of Individual, HUF, AOP and BOI other than woman assessee and senior citizen :

Income Slabs	**Rate of Tax**
Upto Rs. 1,50,000	NIL
Rs. 1,50,001 to Rs. 3,00,000	10 %
Rs. 3,00,001 to Rs. 5,00,000	20 %
Above Rs. 5,00,000	30 %

In case of Resident woman assessee (below 65 years) :

Income Slabs	**Rate of Tax**
Upto Rs. 1,80,000	NIL
Rs. 1,80,001 to Rs. 3,00,000	10 %
Rs. 3,00,001 to Rs. 5,00,000	20 %
Above Rs. 5,00,000	30 %

In case of Resident Senior Citizen :

Income Slabs	**Rate of Tax**
Upto Rs. 2,25,000	NIL
Rs. 2,25,001 to Rs. 3,00,000	10 %
Rs. 3,00,001 to Rs. 5,00,000	20 %
Above Rs. 5,00,000	30 %

No change in Surcharge and Education Cess.

Chart showing impact due to enhancement of income slabs for levy of tax :

	Male Assessee		Female Assessee		Senior Citizen	
	Proposed	Current	Proposed	Current	Proposed	Current
Total Income	5,00,000	5,00,000	5,00,000	5,00,000	5,00,000	5,00,000
Tax Payable	55,000	99,000	52,000	95,500	47,500	86,000
Saving	**44,000**		**43,500**		**38,500**	

Commodities Transaction Tax (CTT)

A New Tax, Commodities Transaction Tax (CTT) similar to Securities Transaction Tax (STT) is proposed to be levied on taxable commodities transactions entered in a recognized association and shall be payable by the seller or the purchaser, as the case may be.

At present there are 24 exchanges recognized under Forward Contracts (Regulations) Act, 1952 including MCX and NCDEX.

The following table provides the list of taxable commodities transactions and the rate at which such CTT is payable :

No.	*Taxable Commodities Transaction*	*Rate*	*Payable by whom*	*Payable against*
1.	Sale of an option in goods or an option in commodity derivative	0.017%	Seller	Option Premium
2.	Sale of an option in goods or an option in commodity derivative, where option is exercised	0.125%	Purchaser	The settlement price of the option in goods or option in commodity derivative
3.	Sale of any other commodity derivative	0.017%	Seller	The price at which the commodity derivative is sold

The said CTT paid during the year will be allowed as deduction from the income from Taxable Commodities Transaction offered for taxation as Business Income. The tax shall come into force from the date on which Chapter VII of the Finance Bill 2008 comes into force by way of notification in the official gazette by the Central Government.

- **Securities Transactions Tax**

Currently the amount of STT paid is allowed as rebate under section 88-E of the Income-tax Act. This rebate is allowed when the income from taxable securities transactions is included under the head ‘profits and gains of business or profession’.

It is now proposed that any amount of securities transaction tax paid by the assessee during the year in respect of taxable securities transactions entered into in the course of business shall be allowed as deduction under section 36 of the Income-tax Act subject to the condition that such income from taxable securities transactions is included under the head 'profits and gains of business or profession'. Consequently it is proposed that no rebate u/s 88E shall be available for STT paid in case of income from taxable securities transactions is included under the head 'profits and gains of business or profession'.

As per the existing provisions, in the case of sale of a derivative, where the transaction of such sale is entered into in a recognized stock exchange, the securities transaction tax will be at the rate of 0.017 per cent and will be payable by the seller.

It is now proposed to amend the provisions as under :

Sr. No.	*Nature of Transaction*	*Rate of STT*	*Payable by*	*Effective Date for change in rate*
1	Sale of an option in securities	0.017 per cent of the option premium	Seller	01-06-2008
2	sale of an option in securities, where option is exercised	0.125 per cent of settlement price	Purchaser	01-06-2008
3	sale of a futures in securities	0.017 per cent	Seller	01-06-2008

- **Banking Cash Transaction Tax**

At present Banking Cash Transaction Tax is levied on taxable banking transaction at the rate 0.1% of the value of each such taxable banking transaction.

It is now proposed to withdraw Banking Cash Transaction Tax with effect from 01-04-2009.

- **Streamlining the definition of "charitable purpose"**

At present Charitable Purpose is defined to include relief of the poor, education, medical relief, and the advancement of any other object of general public utility. In order to curb the benefit of exemption taken for certain commercial activities as charitable and to apply the intention of the provision in its true sense it has been proposed to provide for limiting the scope of "advancement of any other object of general public utility" by stating that :

a) any activity in the nature of trade, commerce or business, or

b) any activity of rendering of any service in relation to any trade commerce or business,

carried on for a fees, cess or any consideration irrespective of the nature of use or application of income from activity or retention of such income by the concerned entity shall not be treated as being carried on for charitable purpose.

- **Section 80C : Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.**

a) Deposit for a fixed period of not less than five years in an account under Post Office Time Deposit Rules, 1981

b) Deposit in an account under the Senior Citizens Savings Scheme Rules, 2004.

shall be eligible for deduction u/s 80C, within the overall limit of Rs. 1,00,000/-.

If any amount is withdrawn by the assessee from such account before the expiry of a period of 5 years from the date of its deposit, the amount so withdrawn shall be deemed to be income of the assessee of the previous year in which the amount is withdrawn, including interest accrued on the deposit. However if interest was offered for taxation in earlier years, such amount shall not be taxed again.

This amendment is proposed from 1.4.2008 and shall be applicable for A.Y. 2008-2009.

- **Section 80D: Deduction in respect of Mediclaim**

Existing provision of Section 80D of the act provides a deduction of Rs. 15,000/- for medical insurance premium paid, if an assessee being an individual pays for his / her health or for spouse, dependent children and dependent parents. Deduction was extended to Rs. 20,000/- if assessee or any of the member of his family on whose health the insurance has been effected, was a senior citizen.

It is now proposed to give additional benefit of Rs. 15,000/- for individual assessee who pays medical insurance premium for his / her parents. Benefit would be extended to Rs. 20,000/- if assessee's parents for whom payment made are senior citizen. The requirement of parent being dependent in the existing provision is dispensed off.

- **Section 80IB : Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.**

Sub clause (11C)

Existing sub-section (11B) of section 80-IB provides a tax holiday to an undertaking deriving profits from the business of operating and maintaining a hospital in a rural area subject to fulfilling of certain conditions. One of the conditions was, that the hospital is constructed at any time during the period beginning on the 1st day of October, 2004 and ending on the 31st day of March, 2008.

It is proposed to insert new subsection (11C) providing tax holiday to an undertaking deriving profits from the business of operating and maintaining a hospital located anywhere in India, other than the excluded area, shall get deduction of 100% of the profits and gains derived from such business for a period of five consecutive assessment years, beginning with the initial assessment year on fulfilment of certain conditions.

The said tax benefit will be available to a hospital which has at least 100 beds for patients and is constructed in accordance with the regulations or bye-laws of local authority and has started or starts functioning at any time during the period beginning on 1st April, 2008 and ending on 31st March, 2013. Further the audit report has to be furnished by the assessee alongwith the return of income.

There are certain other points which need to be kept in mind :

1. a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the local authority concerned;
2. "initial assessment year" means the assessment year relevant to the previous year in which the business of the hospital starts functioning;

"Excluded area" includes seven urban agglomerations of Greater Mumbai, Delhi, Kolkata, Chennai, Hyderabad, Bangalore and

Ahmedabad and the districts of Faridabad, Gurgaon, Ghaziabad, Gautam Budh Nagar and Gandhinagar and the city of Secunderabad.

- **Research and Development Expenditure (Section 35)**

Under the existing provisions, weighted deduction of 125% of the sum paid to an approved scientific research association, approved university, college or other institution to be used for scientific research was allowed subject to certain conditions.

A new clause has been inserted under this section to allow a weighted deduction of 125% of the amount paid by a person to any company registered in India, which has its main object of the scientific research and development, is approved by the prescribed authority and fulfils such other conditions as may be prescribed .

The company approved for deduction u/s 35(1)(iia) will not be entitled to claim weighted deduction u/s 35(2AB) in respect of expenses incurred after 31.03.2008.

- **Preliminary Expenses (Section 35D)**

Under the existing provisions expenses incurred after the commencement of business in connection with extension of industrial undertaking and expenses related in connection with setting up a new industrial unit was allowed as deduction of an amount equal to $1/5^{th}$ of such expenditure for the five consecutive years.

It is provided to delete the words "industrial" from industrial undertaking and industrial unit. Consequently, now even expenditure in the nature of preliminary expenses incurred by the undertaking engaged in service sector shall be eligible for the deduction u/s 35D.

- **Amendments to the provisions of section 40A - Expenses or payments not deductible in certain circumstances.**

As per the existing provisions of Section 40A(3)(a) any expenditure incurred in respect of which payment is made **in a sum** exceeding Rs. 20,000/- otherwise than by an account payee cheque drawn on a bank or by an account payee bank draft, shall not be allowed as a deduction.

A view is prevailing that payments not exceeding Rs. 20,000/- to a single person on various point of time including multiple payment not exceeding Rs. 20,000/- in a single day otherwise than by an account payee cheque or by an account payee bank draft are outside the purview of section 40A(3).

To curb the above practice it is proposed to substitute existing section 40A(3) by providing **that where a payment or aggregate of payments made to a person in a day**, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, the disallowance of such expenditure shall be made under section 40A(3).

Bonds acquired by Non-residents in Foreign Currency

- **Transactions not regarded as transfer (Section 47)**

Section 47 list down certain transactions which are not regarded as transfer for capital gains purpose :

New sub clause (xa) has been inserted which provides that any transfer by way of **conversion of bonds** specified u/s 115AC(1) issued to non resident and purchased by him in foreign currency, **into shares or debentures of any company will not be regarded as transfer.**

- **Cost with reference to certain modes of acquisition (Section 49)**

It is proposed that cost of acquisition of aforesaid shares or debentures of a company by virtue of conversion of bonds, shall be deemed to be that part of the cost of debenture, debenture-stock, **bond** or deposit certificate in relation to which such asset is acquired by the assessee.

- **Increase in Rate for Short-term Capital Gains**

Rate of tax for short-term capital gains on transfer of a short-term capital asset being an equity share in a company or a unit of an equity oriented fund where such transaction is chargeable to STT u/s 111A and 115AD is increased to 15% from present rate of 10%.

- **Minimum Alternate Tax (Section 115JB)**

Section 115JB of Income-tax Act provides for levy of Minimum Alternate Tax (MAT) on the basis of book profits of a company. In order to arrive at book profit, certain adjustments are required by additions and deductions as per explanation to section 115JB.

It is clarified by adding new clause that book profit shall be further increased by amount of deferred tax and provision there for.

As per existing provisions income tax debited to the profit and loss account should be added back to arrive the book profit.

It is now clarified that income tax shall include provision of following items :

a) Dividend Distribution Tax u/s 115-O or Tax on distribution of income to unit holders u/s 115-R
b) Any interest charged under this Act,
c) Surcharge, if any, as levied by the Central Acts from time to time,
d) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and
e) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.

The above clarifications are with retrospective effect form 01-04-2001, i.e. A.Y. 2001-2002.

- **Dividend Distribution tax (Section 115-O)**

Section 115-O relates to tax on distribution of profits by domestic companies. Under the existing provisions dividend distribution tax at the rate of 15% on the amount declared, distributed or paid as dividend is payable in addition to income tax payable on the total income.

It is now proposed that for payment of dividend distribution tax, such amount of dividend shall be reduced by amount of dividend received by the domestic company from its subsidiary, if

– The subsidiary has paid tax under section 115-O on such dividend, and
– The domestic company is not a subsidiary of any other company.

This will remove the cascading effect of dividend distribution tax. It is further proposed that the dividend shall not be reduced more than once.

This amendment is proposed from 1.4.2008 and shall be applicable for A.Y. 2008-2009.

- **Fringe Benefit Tax (Section 115W)**

Amendment to Section 115WB (1)(d)(i) :

Under the existing provisions of section 115WB(1)(d) fringe benefit includes provision of any specified security or Sweat Equity Shares allotted or transferred directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees).

It is now proposed that term specified security shall include “securities offered under stock option plan or scheme” instead of “stock option”.

This amendment is proposed from 1.4.2008 and shall be applicable for A.Y. 2008-2009.

Amendment to Section 115WB (2)(B) :

As per existing provision, Fringe benefit includes provision of hospitality of every kind by the employer to any person, but excludes expenditure on, or payment for, food or beverages being free food or non alcoholic beverages provided by the employer to his employees during working hours in office or factory or through paid vouchers which are non-transferable & usable only at eating joints or outlets.

Further exclusion has been proposed from the definition of hospitality, for expenditure on or payment through non-transferable pre-paid electronic meal card to usable only at eating joints or outlets subject to fulfilment of other prescribed conditions.

Amendment to Section 115WB (2)(E) :

As per existing provisions any expenditure incurred on employees welfare, other than to fulfils any statutory obligation i.e. any expenses to be incurred or required by the law in force or to mitigate occupational hazards i.e. to provides safety to the employees during the work or to provide any first aid facility in the hospital or dispensary by the Doctors are not be liable for FBT.

It is proposed that, expenses incurred in the nature of providing crèche facility for children of the employee or sponsoring an employee as a sportsman or to organize sports events for employees will also not be considered as fringe benefit & shall be excluded from the ambit of fringe benefit.

Amendment to Section 115WB (2)(K) :

As per existing provisions, maintenance of any accommodation in the nature of guest house other than accommodation used for training purposes of the employees is a taxable perquisite & liable to fringe benefit.

It is now proposed that, expenses incurred towards maintenance of guest house shall be out of ambit of fringe benefit tax.

Amendment to Section 115WC :

Under the existing provision 50% of value of expenses incurred for Festival Celebration was considered fringe benefits.

It is now proposed to reduce the percentage from 50% to 20%.

Amendment to Section 115WKB :

It is proposed to insert new section to provide that where fringe benefit tax (with respect to allotment or transfer of specified security or sweat equity shares) has been paid by the employer and subsequently recovered from the employee, the recovery of fringe benefit tax shall be deemed to be the tax paid by such employee in relation to value of fringe benefits provided to him.

The new section further seeks to provide that, not withstanding anything contained in this Act, in the above situation, the employee shall not be entitled for any refund out of such deemed payment of tax; and shall also not be entitled to claim any credit of such deemed payment of tax against tax liability on other income or against any other tax liability.

This amendment is proposed from 1.4.2008 and shall be applicable for A.Y. 2008-2009.

- **Return of Income (Section 139)**

Due Date for filing of return of income and return of fringe benefits of following assessees has been preponed from 31^{st} of October to 30^{th} September.

(i) a company;

(ii) a person whose accounts are subject to audit under the Income Tax Act or any other law

(iii) a working partner of a firm whose accounts are subject to audit under the Income Tax Act or any other law.

Thus, the due date for above assessees for filing return of income and return of fringe benefit for Financial Year ending on 31.3.2008 shall now be 30.9.2008 instead of 31.10.2008

- **Assessment (Section 143)**

(A) The amendment to section 143(1) proposes to empower the assessing officer to rectify errors in the return while processing it. The adjustments permitted are :

   i) any arithmetical error in the return; or

   ii) an incorrect claim, if it is apparent from the information in the return that it is incorrect.

(B) The Assessing Officer shall calculate the tax and interest due on the income after the above adjustments and send an intimation to the assessee specifying the demand payable or granting the refund due, as the case may be.

In case where the returned loss is reduced on account of the adjustment made by the Assessing Officer, then also an intimation is to be issued, irrespective of the fact that no demand arises nor any refund becomes due.

(C) The time limit of sending the intimation shall be one year from the end of the financial year in which the return is filed.

(D) The time limit for selection of case for scrutiny assessment is proposed to be 6 months from the end of the financial year in which the return is filed.

Presently the time limit is 12 months from the end of the month in which the return is filed.

This amendment is proposed from 1.4.2008.

- **Income Escaping Assessment (Section 147)**

The section is proposed to be amended to bring it in line with the legislative intent. It is now provided that if for any assessment year, the assessment order is preferred in appeal, then the Assessing officer can still assess or reassess such income of that assessment year which is not the subject matter of appeal and which has escaped assessment.

Similar amendment is also proposed for Wealth Tax and Fringe Benefit Tax.

This amendment is proposed from 1.4.2008.

- **Time Limit for Completion of Assessments and Re-assessments (Section 153)**

1) As per the existing provisions, when search is conducted on an assessee, then the Assessing officer carries on assessment of six assessment years prior to the assessment year in which search is conducted and any proceedings already initiated for the six years stand abated.
2) However, sometimes the search proceedings are annulled in appeal or any other legal proceedings and in that case as the earlier proceedings have also been abated the Assessing Officer has no recourse.

3) Hence to overcome this lacuna proposed amendment provides that where search proceedings are annulled then the proceedings that were abated shall be revived and the Assessing Officer shall get a time of one year from the date of receipt of the annulment order by the CIT to carry out the assessment or reassessment of the revived proceedings.
4) The provision is proposed to be effective from 01.06.2003.

- **Provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source :**

1) Interest on Securities (Section 193)

As per the proposed amendment, with effect from 01.06.2008, companies will not be liable to deduct tax at source on interest paid by them on securities which are in dematerialised form and listed on a recognised stock exchange in India.

2) Payment to Contractors & Sub-contractors (Section 194C)

Currently the provision for deduction of tax at source from payments made to contractor were not applicable to payments made by an Association of Person or Body of Individuals. The amendment proposes to extend the scope of coverage of the provision to payments made by an Association of Persons or a Body of Individuals to a contractor with effect from 01.06.2008.

3) Consequences of non-deduction of TDS or non-payment of the tax deducted to the government

A view is currently expressed that only where the person responsible to deduct tax deducts the tax but fails to pay the same to the government is an assessee in default in respect of the tax so deducted. However, the provision of section 201 are proposed to be amended with effect from 01.06.2002 to provide that even a person who is responsible to deduct tax but fails to so deduct the tax is also an assessee in default.

4) Credit for Tax Deducted at Source

A scheme for dematerialistion of Tax Deducted at Source (TDS) and Tax Collected at Source (TCS) certificates was introduced and was to be operational from 1.4.2008. As the information technology infrastructure of the Income Tax department is not yet operational, it is proposed to extend the commencement of the scheme from 01.04.2010.

It is also proposed to make rules for the purpose of giving credit in respect of the TDS and TCS

5) A person deducting tax at source on payments made to Non residents will now be required to furnish details of such payments and deduction of tax to the income tax department in the manner as shall be prescribed by the CBDT.

- **Appeals**

1) The proposed new section provides that the CBDT will issue instructions to other income tax authorities fixing monetary limits for filing appeal by the department. That is, the authorities can file appeal only where the demand involved exceeds the prescribed limit.

   However, to safeguard the interest of the department the proposed new section also provides that where an income tax authority has not filed any appeal on any issue in case of an assessee on account of the monetary limits fixed by the Board, it shall not preclude the department from filing an appeal on the same issue in the case of the same assessee for another assessment year or in the case of another assessee on the same issue.
2) The power of the Income Tax Appellate Tribunal to grant stay is sought to be restricted. The maximum period of stay that can be granted is restricted to 365 days from the date of grant of stay.

- **Notice deemed to be valid in certain circumstances (Section 292BB)**

It is proposed to introduce the section to provide that once the assessee has appeared in any proceedings in connection with assessment or reassessment than later on he shall not be allowed to raise an objection that the notice was not served or not served on time or was not served in the proper manner.

Similar amendment is also proposed for Wealth Tax and Fringe Benefit Tax.

This amendment is proposed from 1.4.2008.

SERVICE TAX

FOLLOWING NEW SERVICES ARE INCLUDED IN SERVICE TAX NET (Effective from a date to be notified after the enactment of the Bill) :

1. Services in relation to information technology software such as services in relation to -
   - designing or developing of information technology software,
   - study, analysis, design and programming of such software,
   - upgradation, enhancement and other similar services related to information technology software,
   - providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the startup phase of a new system, specifications to secure a database, advice on proprietary information technology software,
   - acquiring the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software,
   - acquiring right to use information technology software supplied electronically.
2. Services in relation to management of investment under Unit Linked Insurance Plan (ULIP).
3. Services provided by Recognised Stock Exchange in relation to assisting, regulating the business of buying, selling or dealing in securities including forward contracts.
4. Services provided by recognised association or registered association commonly known as commodity exchange in relation to assisting, regulating the business transacted at commodity exchanges including forward contracts.
5. Services provided by processing and clearinghouse in relation to processing of any transactions in securities, goods and forward contract.
6. Services in relation to supply of tangible goods including machinery and equipments for use without transferring the possession.
7. Internet Telecommunication service including internet access services and provision of telecommunication services.

Consequently, internet telephony service is being omitted and now included in Internet Telecommunication Service.

SCOPE OF CERTAIN EXISTING TAXABLE SERVICES EXTENDED OR STREAMLINED AS FOLLOWS (Effective from a date to be notified after the enactment of the Bill) :

1) The words 'client' and 'customer', included in definition of thirty nine taxable services, were creating many ambiguities, to put an end to this now these words are replaced by word 'any person'.

2) Banking and other financial services :

The scope of this service is widened to include service in relation of transaction of purchase or sale of foreign currency, including money changing by an authorized dealer, authorized money changer, banking company or financial institution or by foreign exchange broker.

3) Business Auxiliary Service :

- Exclusion provided in Business Auxiliary Services to Information technology service in relation to designing or developing of computer software or system networking or any other service primarily in relation to operation of computer systems is now omitted as it is now taxable service under a separate head.
- Also it is clarified that 'service in relation to promotion or marketing of service provided by the client' includes any service provided in relation to promotion or marketing of games of chance, organized, conducted or promoted by the client.

4) Cargo Handling Service :

The definition of this service is expanded specifically to include services of packing together with transportation of cargo or goods, with or without one or more other services like loading, unloading, unpacking.

5) Management, Maintenance or Repair Service :

Services in relation to management, maintenance or repair of properties, whether immovable or not, are taxable under 'Management, Maintenance or Repair Service'. The scope of this service is widened by including information technology software within the meaning of properties.

6) Renting of Immovable Property :

From the day this service was covered under service tax net, there prevailed a confusion regarding taxability of granting permission for the use of space in an immovable property, which is now clarified that such activity will be taxable under this service.

7) Consulting Engineer Service :

Exclusion provided in Consulting Engineer Service to discipline of computer software engineering is now omitted as it is now taxable service under a separate head.

8) Technical Testing and Analysis Service & Technical Inspection and Certification Service :

Scope of 'Technical Testing and Analysis Service' and 'Technical Inspection and Certification Service' is extended to specifically include testing, analysis, inspection and certification of information technology software.

9) Tour Operator's Service :

Scope of Tour operator's service is also enhanced to include any person engaged in the business of operating tours in a contract carriage and to provide that "tour" does not include a journey organized or arranged for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre.

EXEMPTION FROM SERVICE TAX :

- The threshold limit of service tax exemption for service providers is being increased from the Rs. 8 lakh to Rs. 10 lakh *(Effective from 1st April, 2008)*
- Consequent upon increase in threshold limit of exemption from Rs. 8 lakh to Rs. 10 lakh, the exemption limit for obtaining service tax registration is being increased from Rs. 7 lakh to Rs. 9 lakh. *(Effective from 1st April, 2008)*

EXEMPTION FROM SERVICE TAX is being provided to :

a) In case of services of Goods Transport Agency, 75% abatement was allowed by notification subject to fulfilment of certain conditions. Now that notification is withdrawn and directly 75% is allowed as exemption unconditionally. *(Effective from 1st March, 2008)*

b) Exemption from service tax is being provided to the taxable service provided by a person, located outside India, in relation to booking of an accommodation for a customer, located outside India, in a hotel located in India. *(Effective from 1st March, 2008)*

AMENDMENTS IN ACT :

Following amendment are proposed in Finance Act, 1994 which are as under and will be effective from the date of enactment of the Bill unless specifically mentioned otherwise :

i) "Gross amount charged", which is the basis for charge of service tax, shall include any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise. For this 'associated enterprise' is given the same meaning as in Income Tax, 1961. [Section 67]

ii) It is proposed to frame a Scheme to enable preparation and filing of service tax returns through a person or class of person known as Service Tax Return Preparer authorized to act for the said purpose.

iii) The Bill authorizes the Central Excise Officer to make assessment on the basis of best judgment after allowing assessee to represent his case where assessee has failed to make service tax returns or assess the tax [Section 72].

iv) Section 77 which provided for penalty for contravention of any provision for which no penalty is provided is substituted and specific penalty for specific contraventions are provided.

v) Section 78 is being amended to provide that in case where penalty for suppressing value of taxable service under section 78 is imposed, penalty for failure to pay service tax under section 76 shall not apply.

vi) A Scheme for resolution of disputes relating to Service Tax arrears pending as on 01.03.2008 and involving amount not exceeding Rs. 25,000, to be called the Service Tax Dispute Resolution Scheme, 2008 is being introduced. The Scheme is valid during 1st July, 2008 to 30th September, 2008.

AMENDMENTS IN RULES :

1) Following amendments are made to The Service Tax Rules, 1994, which are as under and will be effective from 1st March, 2008 unless specifically mentioned otherwise :

   i) Facility to pay service tax in advance is provided to all taxable persons. Service tax paid in advance is allowed to be self-adjusted towards service tax liable to be paid for the subsequent period. [Rule 6(1A)]

ii) Limit for Self-adjustment of excess service tax paid by an assessee towards service tax liability for a month or quarter, as the case may be, is enhanced from Rs. 50,000/- to Rs. 1,00,000/- [Rule 6(4B)]

iii) An assessee is now allowed to rectify mistakes and file revised return within 90 days, instead of the earlier limit of 60 days, from the due date for filing of original return. [Rule 7B].

iv) The Central Excise Officer is empowered to reduce or waive the penalty for delayed filing of return, where the gross amount of service tax payable is nil. [Rule 7C]

2) Following amendments are made to CENVAT Credit Rules, 2004 :

1. The taxable service provided by a goods transport agency in relation to transport of goods by road in a goods carriage is excluded from the scope of "Output Service". [Rule 2(p)] (w.e.f. 01/03/2008)
2. Rule 3 is being amended to allow capital goods outside the premises of the provider of output service without any time restriction, if the same is for providing output service. (w.e.f. 01/04/2008)
3. Where a service provider is providing taxable and exempt service using common inputs or input services, and not maintaining separate accounts, following options are provided -

   (i) either reverse the credit attributable to the inputs and input services used for providing exempted service as per rules prescribed,

   or

   (ii) pay 8% amount of the value of the exempted service determined as per Section 67 of Finance Act, 1994. [Rule 6] (w.e.f. 01/04/2008)
4. A service provider can take credit on inputs and capital goods on the basis of an invoice, bill or challan issued by its other office after complying with the procedure prescribed in Rule 7A. (w.e.f. 01/04/2008)
5. If any provisions of these Rules are contravened for which no specific penal provision exist will attract penalty of Rs. 5,000/- [Rule 15A] (w.e.f. 01/03/2008)

3) Following amendment is made to The Export of Services Rules, 2005 :

   Where 'Management, Maintenance and Repairs Service', 'Technical Testing and Analysis Service' and 'Technical Inspection and Certification Service' are provided remotely through internet or an electronic network including a computer network or any other means in relation to any goods or material or any immovable property, as the case may be, situated outside India at the time of providing of service, then such taxable service, whether or not partly performed outside India, shall be treated as performed outside India and treated as export of service. [Rule 3(ii)] (w.e.f. 01/03/2008)

4) Following amendment is made to The Import of Services Rules, 2006 :

   Where 'Management, Maintenance and Repairs Service', 'Technical Testing and Analysis Service' and 'Technical Inspection and Certification Service' are provided remotely through internet or an electronic network including a computer network or any other means in relation to any goods or material or any immovable property, as the case may be, situated in India at the time of providing of service, then such taxable service, whether or not partly performed outside India, shall be treated as performed in India and leviable to service tax under reverse charge method. [Rule 3(ii)] (w.e.f. 01/03/2008)

5) In case of Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007, Rule 3(1) is being amended to enhance the rate prescribed for optional scheme for payment of service tax for works contract service from the present rate of 2% of the total value of the contract to 4% of the total value of the contract. (w.e.f. 01/03/2008)

6) **Service Tax (Publication of Names) Rules, 2008 :**

   Service Tax (Publication of Names) Rules, 2008 have been notified so as to prescribe rules for publication of names and particulars of specified persons who have intentionally evaded or failed to pay service tax.