

Bill No. 215 of 2016

THE TAXATION LAWS (AMENDMENT) BILL, 2016

A

BILL

further to amend the Income-tax Act, 1961 and the Customs Tariff Act, 1975.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 **1.** (1) This Act may be called the Taxation Laws (Amendment) Act, 2016.
(2) Save as otherwise provided in this Act, it shall come into force at once.

Short title and commencement.

CHAPTER II

DIRECT TAX

Income-tax

- 43 of 1961. 10 **2.** In the Income-tax Act, 1961 (hereinafter referred to as the principal Act in this Chapter), in section 2, in clause (19AA), after *Explanation 4*, the following *Explanation* shall be inserted, with effect from the 1st day of April, 2017, namely:—

Amendment of section 2.

- 15 "*Explanation 5.*—For the purposes of this clause, the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the central Government in the Official Gazette.”.

Amendment
of section
80JJAA.

3. In the principal Act, in section 80JJAA, in sub-section (2), in the *Explanation*, after clause (ii), the following proviso shall be inserted, with effect from the 1st day of April, 2017, namely:—

‘Provided that in the case of an assessee who is engaged in the business of manufacturing of apparel, the provisions of sub-clause (c) shall have effect as if for the words “two hundred and forty days”, the words “one hundred and fifty days” had been substituted.’ 5

CHAPTER III

INDIRECT TAX

Customs tariff

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Amendment
of First
Schedule.

4. In the Customs Tariff Act, 1975, in the First Schedule,—

51 of 1975.

(a) in Chapter 25, for the entry “10%” in column (4) occurring against tariff items 2515 11 00, 2515 12 10, 2515 12 20, 2515 12 90, 2516 11 00 and 2516 12 00, the entry “40%” shall respectively be substituted;

(b) in Chapter 68, for the entry “10%” in column (4) occurring against tariff items 6802 10 00, 6802 21 10, 6802 21 20, 6802 21 90, 6802 23 10, 6802 23 90, 6802 29 00, 6802 91 00, 6802 92 00 and 6802 93 00, the entry “40%” shall respectively be substituted. 15

STATEMENT OF OBJECTS AND REASONS

The existing provisions of the Income-tax Act, 1961 provide for tax neutrality in matters relating to transfer of capital asset, carry forward of loss, claim of certain deductions, etc., in case of demerger of entities. The definition of the term “demerger” contained in clause (19AA) of section 2 of the Income-tax Act, 1961, does not include in its scope, the splitting up or the reconstruction of a company, which ceased to be a public sector company as a result of transfer of its shares by the Government, into separate companies, even if such split up or reconstruction has been made to give effect to the conditions attached to the said transfer of shares by the Government.

2. With a view to facilitate the splitting up or the reconstruction of erstwhile public sector companies and to give effect to the conditions attached to the transfer of shares by the Government, there is a need to bring these types of splitting up or the reconstruction within the scope of definition of the term “demerger”.

3. Section 80JJAA of the Income-tax Act, 1961, was substituted by the Finance Act, 2016, so as to provide that in the case of certain assesseees, in computing profits and gains derived from business, deduction shall be allowed of an amount equal to thirty per cent. of additional employee cost incurred in the course of such business in the previous year for the specified period, subject to the fulfillment of certain specified conditions. One of the conditions provides that the employee should be employed for a period of not less than two hundred and forty days during the previous year. In view of the seasonal nature of the business of manufacturing of apparel, there is a need to reduce the period of employment of an employee who is employed in this business from two hundred and forty days to one hundred and fifty days during the previous year.

4. Presently, imports of marble blocks/slabs and granite blocks/slabs are subject to a combination of non-tariff measures, namely, Quantitative Restriction (QR) and Minimum Import Price (MIP) and tariff measure, that is, customs duty at the rate of 10% levied under the First Schedule to the Customs Tariff Act, 1975.

5. The present tariff rate of customs duty under the First Schedule to the Customs Tariff Act, 1975 as well as the effective rate for marble and travertine blocks/slabs and granite blocks/slabs is 10%. In order to have a greater flexibility in terms of tariffs, the Bill seeks to amend the First Schedule to the said Act so as to increase the tariff rate of customs duty from 10% to the WTO bound rate of 40% on all goods falling under specified tariff items including goods, namely, rough marble and travertine blocks/slabs and granite blocks/slabs.

6. The enactment of the proposed Bill will enable the Government to fix appropriate effective rate of customs duty on marble and travertine blocks/slabs and granite blocks/slabs.

7. The Bill seeks to achieve the above objectives.

ARUN JAITLEY

NEW DELHI;
The 8th August, 2016

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND 274 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 354/72/2015-TRU, dated 5th August, 2016 from Shri Arun Jaitley, Minister of Finance and Corporate Affairs in the Ministry of Finance to Secretary- General, Lok Sabha.]

The President, have been informed of the subject matter of the Taxation Laws (Amendment) Bill, 2016, recommends under clauses (1) and (3) of Article 117 read with clause (1) of Article 274 of the Constitution of India, introduction of the above Bill in Lok Sabha.

ANNEXURE

EXTRACTS FROM THE INCOME-TAX ACT, 1961

(43 OF 1961)

	*	*	*	*	*	*
Definitions.	2. In this Act, unless the context otherwise requires,—					

19AA “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections, 391 to 394 of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

Explanation 4.—For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction may be notified in the Official Gazette, by the Central Government;

Deduction in respect of employment of new employees.

	*	*	*	*	*	*
	80JJA.(1) *					

(2) No deduction under sub-section (1) shall be allowed,—

(a) if the business is formed by splitting up, or the reconstruction, of an existing business:

Provided that nothing contained in this clause shall apply in respect of a business which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business in the circumstances and within the period specified in section 33B;

(b) if the business is acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation;

(c) unless the assessee furnishes along with the return of income the report of the accountant, as defined in the *Explanation* to section 288 giving such particulars in the report as may be prescribed.

Explanation.—For the purposes of this section,—

(i) “additional employee cost” means the total emoluments paid or payable to additional employees employed during the previous year:

Provided that in the case of an existing business, the additional employee cost shall be *nil*, if—

(a) there is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;

(b) emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account:

Provided further that in the first year of a new business, emoluments paid or payable to employees employed during that previous year shall be deemed to be the additional employee cost;

(ii) "additional employee" means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of the preceding year, but does not include—

(a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or

(b) an employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme notified in accordance with the provisions of the Employees, Provident Funds and Miscellaneous Provisions Act, 1952; or

(c) an employee employed for a period of less than two hundred and forty days during the previous year; or

(d) an employee who does not participate in the recognised provident fund;

19 of 1952.

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EXTRACTS FROM THE CUSTOMS TARIFF ACT, 1975

(51 OF 1975)

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THE FIRST SCHEDULE—IMPORT TARIFF

(See section 2)

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SECTION V

MINERAL PRODUCTS

CHAPTER 25

Salt; Sulphur; earths and stone; plastering materials, lime and cement

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Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2515 1100 ...	Crude or roughly trimmed	Kg.	10%	-
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2515 1210 ...	Blocks	kg.	10%	-
2515 1220 ...	Slabs	kg.	10%	-
2515 1290 ...	Other	kg.	10%	-
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
2516 1100 ...	Curde or roughly trimmed	kg.	10%	-
2516 1200 ...	Merely cut, by Sawing, or otherwise into blocks or slabs of a rectangular (including square) shape	kg.	10%	-
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SECTION XIII

ARTICLES OF STONE, OF PLASTER, OF CEMENT, OF ASBESTOS, OF MICA AND OF
SIMILAR MATERIALS; CERAMIC PRODUCTS; GLASS AND GLASSWARE

CHAPTER 68

Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials

Tariff Item	Description of goods	Unit	Rate of duty	
			Standard	Preferential Areas
(1)	(2)	(3)	(4)	(5)
*	*	*	*	*
6802 10 00 ..	Tiles, cubes and similar articles, whether or not rectangular (including square), the largest surface area of which is capable of being enclosed in a square the side of which is less than 7 cm; artificially coloured granules, chippings and powder	kg.	10%	-
*	*	*	*	*
6802 21 10 ...	Marble blocks or tiles	kg.	10%	-
6802 21 20 ...	Marble monumental stone	kg.	10%	-
6802 21 90 ...	Other	kg.	10%	-
*	*	*	*	*
6802 23 10 ...	Granite blocks or tiles	kg.	10%	-
6802 23 90 ...	Other	kg.	10%	-
6802 29 00 ..	Other stone	kg.	10%	-
*	*	*	*	*
6802 91 00 ..	Marble, travertine and alabaster	kg.	10%	-
6802 92 00 ..	Other calcareous stone	kg.	10%	-
6802 93 00 ..	Granite	kg.	10%	-
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LOK SABHA

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further to amend the Income-tax Act, 1961 and the Customs Tariff Act, 1975.

(Shri Arun Jaitely, Minister of Finance and Corporate Affairs)