MADHYAM BRIEFING PAPER

Decoding the Commodity Transaction Tax

On 28th February 2013, India's Finance Minister P Chidambaram proposed a transaction tax on the commodity futures trading under the direct tax provisions in the Union Budget 2013-14. The commodity transaction tax (CTT) would be levied at 0.01 percent (Rs.10 for transaction worth Rs.100000). The CTT would be levied only on non-agricultural commodities futures contracts (e.g., gold, copper and oil) traded in the Indian markets. While the agricultural futures contracts would be exempted from CTT. The tax will be payable by the seller of futures contract. The Chapter VII of the Finance Bill 2013-14 contains the detailed legislation to accompany the proposed tax (*see Appendix*).

The Finance Minister's rationale for introducing a CTT is to bring commodity market on par with the securities market where a securities transaction tax is levied. In his Budget speech, Chidambaram stated, "There is no distinction between derivative trading in the securities market and derivative trading in the commodities market, only the underlying asset is different. It is time to introduce CTT in a limited way. Hence, I propose to levy CTT on non-agricultural commodities futures contracts at the same rate as on equity futures, that is at 0.01 percent of the price of the trade. Trading in commodity derivatives will not be considered as a 'speculative transaction' and CTT shall be allowed as deduction if the income from such transaction forms part of business income."[1]

The proposed CTT would come into effect once the Finance Bill is passed by Parliament. After acquiring the assent from President, the government would issue a notification to make the tax operational. This entire process could be completed by May 2013.

India is the second country in the world to introduce a tax on commodity futures trading. In 1993, Taiwan imposed a transaction tax of 0.05 percent on the value of the commodity futures contract.

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A Second Attempt

It is not the first time that the government has proposed a commodity transaction tax. In the Budget 2008-09 too, a CTT of 0.017 percent (much higher than the current tax proposal) was proposed. However, due to strong apprehensions expressed by the Prime Minister's Economic Advisory Council coupled with intense corporate lobbying, the CTT proposal was not implemented and subsequently withdrawn in the next Budget.

It remains to be seen whether the current proposal of levying a CTT would be implemented at all given the intense lobbying by commodity exchanges, traders and their lobby groups against the tax. Just weeks before the Budget, a multi-million rupee advertisement campaign against the CTT was launched by the Associated Chambers of Commerce and Industry of India (ASSOCHAM), Commodity Participants Associations of India and other business lobby groups to ward off any attempt to introduce such a tax. Such lobby groups propagated misleading views through full page advertisements in national dailies and conferences to influence policymakers and public at large against the commodity transaction tax.

The Revenue Potential

During 2011-12, the total size of commodity futures market was Rs.181261 bn (US$3420 bn), registering a compound annual growth rate of 40 percent since its inception in 2003. Futures trade in non-agricultural commodities accounted for nearly 88 percent of the total turnover on Indian commodity exchanges during this period. The futures trading in bullion (gold, silver and platinum contracts) alone accounted for 56 percent of the total market turnover.

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Based on the current trading value of non-agricultural commodities in the Indian exchanges, a back-of-the-envelope calculation suggests that the proposed CTT (at 0.01 percent) could fetch Rs.15950 million ($300 million) to cash-starved exchequer every year. This is a substantial amount in the present times when tax revenues are under severe pressure and the government's attempts to reduce fiscal deficit through other measures are not yielding positive results.

The revenue raised through CTT could be utilized in several ways. Since New Delhi is too much worried over the current fiscal situation, it could use a part of this tax revenue to reduce the fiscal deficit.

Equally importantly, a portion of proceeds of commodity transaction tax should be utilized to enhance the regulatory and supervisory capacities of the Forward Markets Commission (FMC – regulatory authority) which is grossly understaffed and underfunded. The FMC is unable to perform its tasks effectively given the lack of financial and human resources. To carry out effective market surveillance activities, FMC needs better technological tools as well as professionals with domain specialisation. The FMC is unable to recruit talented professionals due to its low remuneration policy. Most of its staff is drawn on the deputation from various government departments.

A portion of proceeds of commodity transaction tax should be utilized to enhance the regulatory and supervisory capacities of the FMC which is grossly understaffed and underfunded.

A part of proceeds could also be deployed to install ticker boards at local markets and post offices across the country displaying commodity futures prices. This would help farmers and producers to access information on a real-time basis in their local languages and benefit from the futures price movement.

Tracking Money Flows

Apart from revenue potential, there are several other justifications for the adoption of a commodity transaction tax in India.

The CTT would enable authorities to track transactions and manipulative activities that undermine market integrity. Currently, large information gaps exist and a centralized database of money flows is almost nonexistent. With the implementation of CTT, the government would be better equipped to track the inflows and outflows of money into the commodity derivatives markets. This could be particularly valuable to the Indian tax authorities as there are no effective mechanisms at place to track the flow of illicit money that it finding its way into the commodity futures markets. The audit trail is considered to be a key factor behind the prevailing opposition against the proposed tax.

The CTT would enable authorities to create a centralized database of inflows and outflows of money into the commodity derivatives markets.

Fair and Efficient Revenue Collection

Another key benefit of the CTT lies in its progressive outlook. The CTT would only affect speculators and non-commercial players who often use high-frequency trading to transact a large number of commodity futures contracts at very fast speeds. In contrast, a sales tax is generally considered to be regressive because it disproportionately burdens the poor people.

The opponents cannot ignore the fact that the CTT would be a more efficient revenue source than other taxes. The CTT would be collected by the commodity futures exchanges from the brokers and passed on to the exchequer, thereby enabling the authorities to raise revenue in a neat, transparent and efficient manner.

Will CTT Trigger a Sharp Fall in Futures Trading?

A small increase in the transaction costs would not lead genuine hedgers to flee markets because they primarily use futures markets for 'price discovery' and 'price risk management' purposes.

The opponents fear that the proposed tax would lead to a drastic fall in the futures trading volumes. In the initial few weeks, trading volumes in some non-agricultural commodities futures may witness a 5-10 percent decline but given the huge profit opportunities and risk appetite among the trading community, a small levy of 0.01 percent would be quickly absorbed and trading volumes will witness a sharp rebound.

If the trading volumes remain subdued over the next six months, the key factors responsible for the decline would be the adverse price developments in the overseas commodity markets and weak domestic market sentiments. In such an eventuality, the Finance Minister could revisit the transaction tax rate and take other appropriate steps in consultation with the FMC.

However, the proposed tax is unlikely to hit genuine hedgers – consisting of producers, processors and consumers of the underlying commodity – due to their limited participation in the Indian commodity derivatives markets. A small increase in the transaction costs due to CTT would not lead genuine hedgers to flee since they primarily use futures markets for 'price discovery' and 'price risk management' purposes. On the contrary, such market participants may welcome a CTT if it enhances market stability and integrity.

Furthermore, the government is keen to allow banks, mutual funds, insurance companies and institutional investors to trade directly in the Indian commodity derivatives markets. The government is also considering the introduction of new products like commodity options. Both these developments will pave the way for rapid growth in commodity derivatives trading in the coming days.

The introduction of STT had no negative impact on the securities markets which have witnessed tremendous growth in both cash and derivatives segments in the past seven years.

In 2004, a similar apprehension was expressed when a securities transaction tax (STT) was introduced in the Indian stock markets. At that time, market players had predicted that the introduction of STT would bring Indian stock markets to a standstill and would dry up liquidity.[2] Since its implementation, all apprehensions related to STT have proved erroneous. The introduction of STT had no negative impact on the securities markets which have witnessed tremendous growth in both cash and derivatives segments in the past seven years. At present, the daily turnover in the equity cash segment is around $4 billion while the daily turnover in the derivatives segment is around $30 billion.

Since its introduction, the STT has undergone substantial modification depending on market conditions. During the fiscal year 2011-12, the government's revenue from STT was Rs.56560 million ($1.06 billion). Even though the STT rates have been drastically reduced in the current

Budget proposal, the government aims to raise Rs.67200 million ($1.26 billion) from it in the next fiscal year (2013-14).

Will CTT Promote Illegal 'Dabba' Trading?

The opponents fear that the imposition of CTT would shift as much as 90 percent of futures trading ($2705 bn) from commodity exchanges to illegal platform (popularly called 'Dabba' trading). "Almost all the business will be lost and trading will shift to Dabba,"[3] argues Venkat Chary, Chairman of Multi Commodity Exchange – country's largest commodity exchange with a market share of 86 percent of the Indian commodity futures market.

Dabba trading in commodity futures has mushroomed across the country over the past ten years in the absence of any transaction tax.

Dabba trading – similar to bucket shops in the US in the 1920s – is a parallel market operating in India without any rules and regulatory oversight. The brokers and speculators illegally place bets on commodities (mostly gold and silver) without paying any fees and settle their transactions in cash outside the exchanges. Since transactions and client details are not reported, Dabba trading is one of the major contributors of unaccounted illicit money in the Indian economy.

But it would be wrong to assume that a tax of 0.01 percent would alone shift futures trading worth $3000 billion to Dabba trading. The opponents need to recognize that Dabba trading in commodity futures has mushroomed across the country over the past ten years in the absence of any transaction tax.

The market observers believe that commodity exchanges have often used the bogey of Dabba trading to advance their self-interest rather than taking action against brokers who indulge in it. There are numerous factors that encourage the growth of Dabba trading in commodity futures and are beyond the scope of this paper. However, a part of solution lies in better policing and policying to break the nexus between commodity brokers, traders and criminals. The FMC needs more punitive powers to act against commodity brokers and traders involved in such malpractices.

No international exchange can trade in Indian commodity futures contracts without a license from domestic exchanges and approval from concerned regulatory authorities.

Another widespread fear that the CTT would lead to migration of futures markets to offshore markets is grossly exaggerated. No international exchange can trade in Indian commodity futures contracts without a license from domestic exchanges and approval from concerned regulatory authorities.

The Murky World of India's Commodity Futures Markets

Over the years, we have witnessed that excessive speculative trading by big players more often than not degenerates into market manipulation. Despite some recent initiatives by FMC, the Indian

commodity futures markets remain a fertile ground for price manipulation by rogue traders. As a result, futures markets are unable to perform two primary functions – price discovery and hedging – in a fair, transparent and orderly manner.

In the Indian futures markets, the price discovery function is largely limited to agricultural commodities.

The speculators overwhelmingly dominate trading in non-agriculture commodity futures. To illustrate, not a single barrel of crude oil was delivered out of 730 million tonnes crude oil futures contracts (worth Rs.24633 bn/$464 bn) traded at MCX during 2011-12. "Trading in oil and gas futures is almost wholly by pure speculators rather than government-owned oil and gas companies. Ditto is the case with gold and silver. In other words, all these contracts are being traded for the pure kick of making a bet,"[4] says Nidhi Nath Srinivas, Commodities Editor of *The Economic Times*.

In the Indian futures markets, the price discovery function is largely limited to agricultural commodities. "The prices of gold, silver, crude oil and natural gas are discovered on the exchanges in London, Dubai and New York. Their contracts in India simply mirror the trends in the overseas markets. In fact, if you ignore the currency fluctuation, you will discover perfect co-relation between NYMEX (New York Mercantile Exchange) and MCX prices. So whether trading volumes rise or fall in Mumbai make no difference to the price discovery overseas,"[5] Srinivas adds.

The Guar Futures Trading Scandal

When the new regulatory measures failed to rein in rampant speculative trading, the FMC announced the suspension of futures trading in guar futures contracts in March 2012.

The recent guar trading fiasco reveals how commodity exchanges are acting like casinos for speculators, moving away from their avowed objectives of price discovery and price risk management in an efficient and orderly manner.[6] A speculative buying frenzy (coupled with market manipulation through circular trading) caused unusual price hike in guar futures contracts during October 2011-March 2012. Guar seed and guar gum prices surged 900 percent in the futures markets during this period. There is no denying that strong export demand for guar products pushed up prices initially but a 900 percent price increase cannot be attributed solely to this factor.

In a well orcherested game, big players in the futures markets in collusion with spot market traders managed to hoard a sizeable portion of physical stocks and thereby created an artificial shortage in the spot markets. Savvy speculators managed to circumvent new regulations on positions limits and margins imposed by FMC. Moreover, the guar farmers did not benefit from price hike because they had sold their produce several weeks before prices began spiraling upward in the futures markets. When the new regulatory measures failed to rein in rampant speculative

trading, the FMC announced the suspension of futures trading in guar futures contracts in March 2012. After the suspension of trading in futures contracts, the guar prices witnessed a sharp decline in the spot markets.

Speculators Shifting to Agricultural Commodities?

The measure to exempt agricultural commodities from CTT is ostensibly designed to encourage the participation of farmers in the futures markets. However, the unintended consequences of this move could be wide ranging as speculators may shift focus to narrow agricultural commodities (such as cardamom, methna oil and mustard seed) which are more susceptible to price manipulation due to limited domestic production and non-availability of precise and timely data.

A levy of 0.01 percent alone cannot fix the myriad problems plaguing the Indian commodity futures markets.

As pointed out by G Chandrasekhar, Commodities Editor of *The Hindu Businessline*, "A blanket exemption could have been avoided. Exemption ought to have been restricted to really essential food crops and products (with high weightage in the consumer price index) such as wheat, sugar, soyabean oil, chana and similar items."[7]

CTT is not a Panacea

Despite numerous potential benefits, a levy of 0.01 percent alone cannot fix the myriad problems plaguing the Indian commodity futures markets. The CTT should not be viewed as a substitute for effective regulation of futures markets.

If CTT is used in conjunction with other measures (such as strengthening the regulatory and supervisory capacities of FMC, segregating hedgers and non-commercial traders, and encouraging greater participation of farmers and hedgers) it does offer an attractive mechanism to reform the Indian commodity derivatives markets. Hence, the CTT should be part of policy measures to ensure that commodity futures markets function in a fair and orderly manner.

The CTT should be part of policy measures to ensure that commodity futures markets function in a fair and orderly manner.

Once implemented, the government needs to constantly monitor and fine-tune the commodity transaction tax in response to rapidly changing market conditions.

In the larger interest of macro economy, the economic and developmental gains of taxing speculative transactions in the commodity futures markets are more than the private gains of speculators and day traders.

— Kavaljit Singh

Notes and References

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[3] Quoted in "Bourses fear 90% Shift to Dabba Trade," *The Hindu Businessline*, February 12, 2013. Available at: http://www.thehindubusinessline.com/markets/commodities/article2885703.ece.

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Briefing Paper # 10

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CHAPTER VII

COMMODITIES TRANSACTION TAX

Extent, commencement and application.

105. (*1*) This Chapter extends to the whole of India.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(*3*) It shall apply to taxable commodities transactions entered into on or after the commencement of this Chapter.

Definitions.

106. In this Chapter, unless the context otherwise requires,—

(*1*) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961;

43 of 1961.

(*2*) "Assessing Officer" means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(*3*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(*4*) "commodities transaction tax" means tax leviable on the taxable commodities transactions under the provisions of this Chapter;

(*5*) "commodity derivative" means—

(*i*) a contract for delivery of goods which is not a ready delivery contract; or

(*ii*) a contract for differences which derives its value from prices or indices of prices—

(*A*) of such underlying goods; or

(*B*) of related services and rights, such as warehousing and freight; or

(*C*) with reference to weather and similar events and activities,

having a bearing on the commodity sector;

(*6*) "prescribed" means prescribed by rules made under this Chapter;

(*7*) "taxable commodities transaction" means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations;

(*8*) words and expressions used but not defined in this Chapter and defined in the Forward Contracts (Regulation) Act, 1952, the Income-tax Act, 1961, or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts.

74 of 1952.
43 of 1961.

Charge of commodities transaction tax.

107. On and from the date of commencement of this Chapter, there shall be charged a commodities transaction tax in respect of every taxable commodities transaction, being sale of commodity derivative, at the rate of 0.01 per cent. on the value of such transaction and such tax shall be payable by the seller.

108. The value of a taxable commodities transaction referred to in section 107 shall, with reference to such transaction, be the price at which the commodity derivative is traded.

Value of taxable commodities transaction.

109. (*1*) Every recognised association (hereinafter in this Chapter referred to as assessee) shall collect the commodities transaction tax from the seller who enters into a taxable commodities transaction in that recognised association at the rate specified in section 107.

Collection and recovery of commodities transaction tax.

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(*2*) The commodities transaction tax collected during any calendar month in accordance with the provisions of sub-section (*1*) shall be paid by every assessee to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(*3*) Any assessee who fails to collect the tax in accordance with the provisions of sub-section (*1*) shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (*2*).

10

110. (*1*) Every assessee shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form, verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable commodities transactions entered into during such financial year in that recognised association.

Furnishing of return.

15

(*2*) Where any assessee fails to furnish the return under sub-section (*1*) within the prescribed time, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

20

(*3*) An assessee who has not furnished the return within the time prescribed under sub-section (*1*) or sub-section (*2*), or having furnished a return under sub-section (*1*) or sub-section (*2*) notices any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

25

111. (*1*) For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under section 110 or upon whom a notice has been served under sub-section (*2*) of that section (whether a return has been furnished or not), a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

Assessment.

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(*2*) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (*1*) and after taking into account any other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable commodities transactions during the relevant financial year and determine the commodities transaction tax payable or the refund due on the basis of such assessment:

35

Provided that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(*3*) Every assessee, in case any amount is refunded to it on assessment under sub-section (*2*), shall, within such time as may be prescribed, refund such amount to the seller from whom such amount was collected.

40

112. (*1*) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this Chapter within one year from the end of the financial year in which the order sought to be amended was passed.

Rectification of mistake.

45

(*2*) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section (*1*), the Assessing Officer passing such order may, notwithstanding anything contained in any other law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

50

(*3*) Subject to the other provisions of this section, the Assessing Officer may make an amendment

under sub-section (*1*), either *suo motu* or on any mistake brought to his notice by the assessee.

(*4*) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer has given notice to the assessee of his intention so to do and has given the assessee a reasonable opportunity of being heard. 5

(*5*) An order of amendment under this section shall be made by the Assessing Officer in writing.

(*6*) Subject to the other provisions of this Chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make the refund, which may be due to such assessee.

(*7*) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly. 10

Interest on delayed payment of commodities transaction tax.

113. Every assessee, who fails to credit the commodities transaction tax or any part thereof as required under section 109 to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent. of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed. 15

Penalty for failure to collect or pay commodities transaction tax.

114. Any assessee who—

(*a*) fails to collect the whole or any part of the commodities transaction tax as required under section 109; or

(*b*) having collected the commodities transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (*2*) of that section, 20

shall be liable to pay,—

(*i*) in the case referred to in clause (*a*), in addition to paying the tax in accordance with the provisions of sub-section (*3*) of that section, or interest, if any, in accordance with the provisions of section 113, by way of penalty, a sum equal to the amount of commodities transaction tax that he failed to collect; and 25

(*ii*) in the case referred to in clause (*b*), in addition to paying the tax in accordance with the provisions of sub-section (*2*) of that section and interest in accordance with the provisions of section 113, by way of penalty, a sum of one thousand rupees for every day during which the failure continues; so, however, that the penalty under this clause shall not exceed the amount of commodities transaction tax that he failed to pay. 30

Penalty for failure to furnish return.

115. Where an assessee fails to furnish the return within the time prescribed under sub-section (*1*) or sub-section (*2*) of section 110, he shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which the failure continues.

Penalty for failure to comply with notice.

116. If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that the assessee has failed to comply with a notice under sub-section (*1*) of section 111, he may direct that such assessee shall pay, by way of penalty, in addition to any commodities transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each such failure. 35

Penalty not to be imposed in certain cases.

117. (*1*) Notwithstanding anything contained in section 114 or section 115 or section 116, no penalty shall be imposable for any failure referred to in the said sections, if the assessee proves to the satisfaction of the Assessing Officer that there was reasonable cause for the said failure. 40

(*2*) No order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

Application of certain provisions of Income-tax Act.

118. The provisions of sections 120, 131, 133A, 156, 178, 220 to 227, 229, 232,260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293 of the Income-tax Act, 1961 shall apply, so far as may be, in relation to commodities transaction tax, as they apply in relation to income-tax. 45 43 of 1961.

Appeal to Commissioner of Income-tax (Appeals).

119. (*1*) An assessee aggrieved by any assessment order made by the Assessing Officer under section 111 or any order under section 112, or denying his liability to be assessed under this Chapter, or by an order imposing penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer. 50

(*2*) An appeal under sub-section (*1*) shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of one thousand rupees.

(*3*) Where an appeal has been filed under sub-section (*1*), the provisions of sections 249 to 251 of the Income-tax Act, 1961, shall, as far as may be, apply to such appeal. 43 of 1961.

120. (*1*) An assessee aggrieved by an order made by a Commissioner of Income-tax (Appeals) under section 119 may appeal to the Appellate Tribunal against such order.

Appeal to Appellate Tribunal.

(*2*) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 119, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(*3*) An appeal under sub-section (*1*) or sub-section (*2*) shall be filed within sixty days from the date on which the order sought to be appealed against is received by the assessee or by the Commissioner of Income-tax, as the case may be.

(*4*) An appeal under sub-section (*1*) or sub-section (*2*) shall be in such form and verified in such manner as may be prescribed and, in the case of an appeal filed under sub-section (*1*), it shall be accompanied by a fee of one thousand rupees.

43 of 1961.

(*5*) Where an appeal has been filed before the Appellate Tribunal under sub-section (*1*) or sub-section (*2*), the provisions of sections 253 to 255 of the Income-tax Act, 1961, shall, as far as may be, apply to such appeal.

121 (*1*) If a person makes a false statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

Punishment for false statement.

2 of 1974.

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (*1*) shall be deemed to be non-cognizable within the meaning of that Code.

122. No prosecution shall be instituted against any person for any offence under section 121 except with the previous sanction of the Chief Commissioner of Income-tax.

Institution of prosecution.

123. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

Power to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the time within which and the form and the manner in which the return shall be delivered or caused to be delivered or furnished under section 110;

(*b*) the form in which an appeal may be filed and the manner in which it may be verified under sections 119 and 120.

(*3*) Every rule made under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

124. (*1*) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

CHAPTER VIII

MISCELLANEOUS

125. In the Finance (No. 2) Act, 2004, in section 98, in the Table, with effect from the 1st day of June, 2013,—

Amendment of Act 23 of 2004.

(*i*) against Sl. No. 1, under column (2) relating to taxable securities transaction,—

(*A*) the words *"*or a unit of an equity oriented fund,*"* shall be omitted;

(*B*) in item (*b*), the words *"*or unit*"*, at both the places where they occur, shall be omitted;

(*ii*) against Sl. No. 2, under column (2) relating to taxable securities transaction,—

(*A*) the words "or a unit of an equity oriented fund," shall be omitted;

(*B*) in item (*b*), the words "or unit", at both the places where they occur, shall be omitted;

(*iii*) after serial number 2 and the entries relating thereto, the following serial number and entries shall be inserted, namely:— 5

Sl. No.	Taxable securities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
"2A	Sale of a unit of an equity oriented fund, where— (*a*) the transaction of such sale is entered into in a recognised stock exchange; and (*b*) the contract for the sale of such unit is settled by the actual delivery or transfer of such unit.	0.001 per cent.	Seller";

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(*iv*) against Sl. No.4, in item (*c*), under column (3) relating to rate, for the figures "0.017", the figures "0.01" shall be substituted;

(*v*) against Sl. No. 5, under column (3) relating to rate, for the figures "0.25", the figures "0.001" shall be substituted. 20

Declaration under the Provisional Collection of Taxes Act, 1931

It is hereby declared that it is expedient in the public interest that the provisions of clauses 76, 77 (b), 91 and 92 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931. 25 16 of 1931.